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Lyman Trumbull  
His Relationship to  
Abraham Lincoln  
1860-1865

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LYMAN TRUMBULL  
HIS RELATIONSHIP TO ABRAHAM LINCOLN  
1860-1865

BY

LORA WRIGHT

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THESIS

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LYMAN TRUMBULL  
HIS RELATIONSHIP TO ABRAHAM LINCOLN

1860-1865

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P R E F A C E.

The subject of this thesis, Lyman Trumbull's relationship to Abraham Lincoln, particularly during the time Lincoln was President, has, upon close examination, a wide scope. It is impossible, in dealing with a man's relations to certain phases of life, not to take into consideration the origin and conditions of that person's life, as factors which mould it. In fact, this is a principle so well known and so extensively used in this scientific age, when most of the work both creative and critical has, as its background, a systematic and scientific inquiry into causes and effects, that it has become a matter of course just as a college education has become a matter of course.

Someone has said that all graduate work is related to origins and influences. Biography, perhaps more easily than any other form of historical research lends itself to the application of the rule of origins and influences. On this basis, it might seem that the path has been simple, in dealing with Lyman Trumbull, in a way almost entirely biographical. But this is not true for one finds that one must always take into account the amount of data, coming under the head of origin and conditions, that one has at hand. In the second place, one must take into account the amount of positive proof of a response to these factors, origin and influences.

In the case of Lyman Trumbull, since no biography has been written to which one might refer I have found it necessary to



depend upon his opinions expressed upon different subjects. I have had the task before me of finding out Trumbull's political attitude upon all subjects and in the second place I have tried to discover what his personal relationship to Lincoln was. The discussion of Trumbull's life has necessitated keeping in mind his early boyhood training which had a lasting effect upon his character and the conditions which later moulded his life as moulding his character also. In this case, one began with a character formed by New England influences and several generations of New England ancestors, and later deeply effected by the problems he had to face.

The question of political attitude has been much easier to deal with, in regard to Trumbull, than that of personal feelings since there is a vast amount of data in the way of response to historical problems, which brought themselves up for solution. The data exists in the form of speeches in the Senate during 1856-1865, and reflects not only past training but present conditions as factors. In the more personal side of Trumbull the data has been found in a more intensive way, wrapped up in the political speeches here and there. The method of arriving at personal data through impersonal expressions is a dangerous one and is attended by difficulties. One should be most cautious in employing this method. Trumbull left nothing in the way of diaries, letter books, etc., from which one may glean facts. The only collection of anything of the kind is a packet of letters now in the Congressional Library at Washington, as yet unprinted. But this collection contains little referring to the period of my work. Mr. Horace White has gone through these letters quite thoroughly and has found, he tells me, little concerning this period.



In the first Chapter I have taken up the life of Lyman Trumbull in a more or less general way, trying to show the important land marks of his career as it developed up to 1860. The treatment of this period has been toward the end of introducing him as he was in 1860. Without the knowledge, contained in this Chapter it is difficult to understand the man as he appeared 1860-1865. I have taken Trumbull's early life, his life in Georgia, his coming to Illinois and his subsequent entrance and career in the political arena of Illinois and the nation as the scope of this Chapter. The one point I wish to emphasize most, is his devotion to his own convictions rather than to those principles set down by any party for its adherents to follow.

The first Chapter is followed by one in which the situation of 1860 is stated and discussed. I have endeavored to show what attitude Lyman Trumbull took in the Senate when the great questions of slavery and disunion came up for discussion ; questions which had been the gradual evolution of years. The most important question taken up in this session 1860-1861, before President Lincoln was inaugurated, was that of compromise and this question involved the whole realm of the question "What should be done to preserve the Union." In this chapter and in those following it I have depicted the political and historical background as a setting of Trumbull's views, and as showing his character more clearly.

Chapter three contains a discussion of the events as they occurred from the close of Congress in March 1861 to July 1861, and the special session of July 1861. The discussion of the acts of the President from April to July 1861 formed an important part of



the Congressional debates at the beginning of the special session. The Chapter also deals with the legislation in regard to confiscation and the carrying on of the war. The questions which ran through the whole war all had their beginnings in this session and it depicts those policies in embryo which later became principles of the most far reaching sort and upon which, as a basis, the Union was later reconstructed. The Crittenden resolution was a feature of this special session not to be overlooked for in it the north justified their part in the war, a justification necessary to show the south that the war was not being waged alone to subjugate the south.

Chapter four deals with the legislation from 1861 to 1864 and is the most important chapter in the thesis because it portrays the part which Trumbull took in the actual organic legislation. I have divided the actions of Congress into three sections in this Chapter. The first is army legislation, under which have been taken up the subjects of arbitrary arrests, confiscation acts and the suspension of the Writ of Habeas Corpus. In the second division I have shown Trumbull's policy as it developed in the currency legislation, in legal tender acts and taxes. The third division is by far the most important and shows the development of Lyman Trumbull's policy in regard to slavery along the lines laid down in the Chapter before this. I have shown how the confiscation bill developed into a more sweeping measure in the idea of compensated emancipation and have dealt with emancipation in Missouri and the District of Columbia. The legislation here shows a marked development which was but a natural and inevitable thing as events afterward showed.



Chapter five diverges from the purely legislative theme of the foregoing Chapters and deals with the political attitude of Trumbull in non-legislative affairs. To show this I have narrated his interest in General McClellan and the management of the war, his attitude toward the Cabinet and its seeming disloyalty to the administration, in foreign affairs as reflected by the Trent episode and in the political campaign of 1864 and Lincoln's re-election. In this an effort has been made to show as much as possible the personal attitude of Trumbull.

The next Chapter takes up the masterpieces of Trumbull in the thirteenth amendment and his reconstruction policy, without which it was impossible to again form the Union with any idea to real unity and without which the country could not be relieved of its wrongs.

Chapter seven contains a bibliographical account of materials used in the compilation of the previous Chapters.



I.

Lyman Trumbull is one of the few men in the political history of Illinois, who succeeded in following, with little or no deviation the dictates of his conscience, an element perhaps too often neglected in modern politics. I account for this in the fact that Trumbull's life from the beginning had been based upon a New England Puritanism, colored by a moral code which was the natural outcome of a life in the South followed by a long residence in the Middle West. Born at Colchester, Connecticut, in 1813, the son of a prominent and well-known New England family though poor, he was denied the advantages of a college education. At Sixteen young Trumbull taught school in Colchester and shortly after this went to Georgia where he became the head of an academy and studied law, being admitted to the bar shortly afterward.<sup>1</sup> It may be said that a man of twenty years could not have been influenced greatly by his surroundings. I find that the four years Lyman Trumbull spent in Georgia, had a lasting effect upon his character; for it was here that he first had presented to him with force that political and economic--one might say, historic problem, which, fifteen years later assumed such proportions--namely, slavery. It was here that he saw the evils and good points in the system.

In 1837, at the age of twenty four, Trumbull came to Illinois and it is in Illinois that he attained his first recognition and later became a figure not only in State but national

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1.- Dictionary of National Biography.



politics. At the age of twenty-seven Trumbull became a member of the State legislature and during the next year became Secretary of State.<sup>1</sup> This was in 1840, a time most vitally important in Illinois politics in the development of parties and the slavery question. The Lovejoy episode had occurred and had brought abolition to the minds of the people more forcibly than it had been presented before.

The election of Governor Ford in 1840 had shown the state overwhelmingly Democratic but other parties were rising. The people were so thoroughly partisan upon the great questions absorbing the nation, that local interests were often disregarded. In 1840 the debt of the State was \$313,000 and there was no money in the Treasury. The annual revenue was by no means adequate and at that time it seemed almost impossible to devise any system of policy which would relieve the State.<sup>2</sup> Every one had his plan and the confusion of counsels among prominent men was equalled only by the confusion in public affairs. As between different parties it seemed more important to know whether a candidate for the legislature was for or against a United States Bank, a protective tariff, or public land distribution; to know whether he was Whig or Democrat than to know his opinion in State politics.

The great prevailing principle, upon which each party acted in selecting candidates for office was to get popular men,--men who had made themselves agreeable to the people. Politicians generally knew better how to get into office than to perform its duties and statesmanship was little studied before 1840. Many politicians were mere demagogues. In 1843 the minds of the people

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1.- National Biography.

2.- Ford's History of Illinois, ch VI.



were unsettled and public men stood in awe of the question of a tax for Internal Improvement which they felt incompetent to handle and which forced itself upon their notice. A bill was brought into the House of Representatives in favor of a compromise with the State Bank.<sup>1</sup> This bill was drawn up by Governor Ford and presented as a Democratic measure and was voted for with a great majority.<sup>2</sup> The opposition was headed by Lyman Trumbull who was then Secretary of State. In taking this stand Ford says that he was "probably less influenced by a hope of pecuniary advantage to himself than by a desire to serve his friends, to be considered a thorough-going party man, and by a hatred of McClernand and Shields who both favored the measure and were enemies of Trumbull."<sup>3</sup>

Trumbull held that the measure was not sufficiently Democratic and "wished to cast the imputation that McLernand was a 'milk and water' Democrat"--but McLernand was too powerful in argument and Trumbull was soon silenced although his stand against the Governor who felt that his Secretary of State should support his every measure, caused him to lose his office. The bill of the Governor passed and from this point the financial condition in the State improved.

In 1845 agents were appointed to negotiate in the East or in Europe a loan for the Michigan-Illinois Canal and it was necessary to pay their expenses.<sup>4</sup> Since the treasury was empty the Governor made up his mind to use part of the school fund for this purpose. Trumbull, having recently lost his position "out of

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- 1.- Ford's History of Illinois, ch VII., p 260 ff.
  - 2.- T. Fords History of Illinois, ch VII., 220 ff.
  - 3.- Thomas Ford in T. Ford's History of Illinois, p 320.
  - 4.- T. Ford's History of Illinois.



chagrin" says Ford, opposed this method of obtaining funds.

As far as I can judge, Ford's opinion of Trumbull is somewhat biased. He says; "Trumbull, being a good lawyer, but no statesman, was literally devoured by ambition for office and was unfitted for it. He seemed to feel that the only means of success was to be a demagogue and he was unfitted to be a demagogue."<sup>1</sup> But I think Governor Ford's estimate of Trumbull's manner and<sup>2</sup> character is otherwise good. "His manner was precise, and his appearance would be called by many Puritanical. He was a man of strong prejudice and not remarkable for brilliant views. No such man could successfully play the part of demagogue; he may manage well with politicians but can never establish a broad foundation of support among the people. Such men might be respectable, acting in accordance with natural gifts--but must always fail when acting a part they are not fitted for by nature." In contemplating Trumbull's later development in the political world we will see how his attitude and strong prejudice, at first so noticeable, became gradually softened by his contact with broad principles.

After Trumbull was removed from his position as Secretary of State he hastened to Belleville to be a candidate for Congress, seeking to array the anti-bank Democrats in some order. This he failed to do. Afterwards he was successively a candidate for Governor and again candidate for Congress but failed.<sup>3</sup> He was believed to be an active, ambitious man and one who was to possess considerable power and the idea that he was great, naturally gave more power to him.

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1.- Ford's History of Illinois, p 304 ff.

2.- Ibid.

3.- Ibid, p 334 ff.



His early advent into this excellent school for political training and his ability as a lawyer helped to bring him to the front ranks and when, in 1848, he became a justice on the Supreme Bench he was very well-known.<sup>1</sup> At the bar and in the capacity of Judge, Lincoln, Douglas and others, who stood higher as mere men of the law, were his companions.<sup>2</sup> Trumbull remained on the bench until 1853 when he resigned for pecuniary reasons although his term still had eight years to run. From this point he was known as Judge.

Meanwhile national affairs were absorbing the interest of all. The Kansas-Nebraska bill which passed Congress May 1854, declared that the Missouri Compromise, by which slavery was prohibited north of 36° 30' except in Missouri, was inoperative and void by reason of its inconsistency with the Compromise of 1850; and the principle of popular sovereignty, that Congress could not legislate slavery into any territory or state, or exclude it therefrom, but leave the people perfectly free to form their own domestic institutions in their own way, was established.<sup>3</sup> This came on the country like a clap of thunder. The Democratic party still maintained its organization but Mr. Douglas was aware of the effect such a measure might have upon his party.<sup>4</sup>

The repeal of the Missouri Compromise brought Trumbull again into politics, as was the case with Mr. Lincoln.<sup>5</sup> The Nebraska question was one of absorbing interest and in Illinois the

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1.- Dictionary National Biography.

2.- " " "

3.- Ford's History of Illinois, pp 334 ff.

4.- Congress, Globe, May 1854.

5.- Smith, "Parties and Slavery", American Nation Series.



people became as interested as elsewhere. All reluctant politicians were compelled to avow themselves on one side or the other and party organization in Illinois though strong; began to show how great the strain was. The Democrats who did not actually oppose the Nebraska bill, as a matter of course, sustained the measure but there was a portion which left the ranks and became strongly Anti-Nebraska. In the northern part of the State where the Anti-Slavery element was strong and constantly gaining ground, an endeavor was made to form a Republican party. The Free-Soilers and Abolitionists came forward in opposition to the policy of Douglas. They now became prudent whereas before they had been held up more or less to the public odium; in the central and southern parts of the State opposition was more slow in forming. In the meantime the repeal being a well-established fact, the Democrats slowly but fearfully shouldered the dangerous dogma.

Since Lincoln's return to Springfield from Congress in 1847-48 he had withdrawn from politics but now, as I have said before, his attention was diverted once more from business and with the summer of 1854, we find both Lincoln and Trumbull stumping the State as candidates for the United States Senate.<sup>1</sup> They were both received with enthusiasm by the earnest rural population. Douglas, known as the "Little Giant", after a rebuff at Chicago which was a hot-bed of opposition, toured the State. He was well-known to Lincoln both in his weak and strong points. Douglas, somewhat disconcerted at the strength of arguments of his opponents seemed at first to lose strength.

At the Senatorial Convention of 1854 after several ballots,

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1.-"Complete Works of Lincoln" Century Edition, Vol. I., p 260.



it seemed, that no satisfactory result would be reached, although the legislature had been Anti-Nebraska. There were five Anti-Nebraska Democrats in favor of Lyman Trumbull. These would not, under any consideration, cast their vote for Lincoln or any other Whig; but finally, on the tenth ballot, Lincoln persuaded his friends to vote for Trumbull. Judge Logan, Lincoln's old friend, urged him to continue to be a candidate but Lincoln firmly answered, "If I do, you will lose both Trumbull and myself and I think the cause, in this case, is to be preferred to men."<sup>1</sup> The Whigs obeyed in bitterness of spirit and helped to elect Trumbull, the Anti-Nebraska democratic candidate instead of Lincoln, who had been their idol. It was a distinct compromise from their point of view. It remained for history to show later that the choice was perhaps fortunate. It saved Lincoln for a more profound crisis and served to show how bravely and how well Trumbull could perform a high duty thus placed upon his shoulders and surrendered so magnanimously.

Upon every issue except the Nebraska bill Trumbull still declared himself an uncompromising Democrat.<sup>2</sup> This fact had influenced the friends of Lincoln to such an extent that it was only with the most lingering sorrow that they had finally brought themselves to make the sacrifice. Lincoln felt keen disappointment in his failure to win the coveted place and after the convention was over he gave fit to his self depreciation and melancholy. "I have done nothing to make any human being remember that I have lived. To connect my name with events of my day and generation and so impress myself upon them as to link my name with something that will

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1.- Stoddard, "Life of Lincoln", p 278.

2.- Nicolay and Hay, "Complete Works of Lincoln," Century Edition, Vol. I., pp 159 ff.



rebound to the credit of my fellow men, is all that I desire to live for."<sup>1</sup>

In order to reconcile conflicting but congenial elements<sup>2</sup> in the State of Illinois a Convention met in 1856 at Bloomington. The platform was drawn up on the principle of opposition to the administration of Buchanan; the congressional power of Congress to abolish slavery in the territories; opposition to the repeal of the Missouri Compromise, and the immediate admission of Kansas as a free State under the constitution adopted by the people. Thus the Republican party, an amalgamation of Abolitionists, Know-Nothings, Whigs and Democrats came into existence. Amongst the leaders in the movement were Lincoln and Trumbull. The importance of this alliance cannot be over-estimated. I can find no proof that the charges brought by Douglas two years later are true. In the debates he said, "When the bargain between Lincoln and Trumbull was completed by the abolitionizing the Whig and Democratic parties, they spread over the State, Lincoln still pretending to be an old line Whig in order to 'rope in' the Whigs and Trumbull pretending to be as good a Democrat as he ever was in order to coax the Democrats over into the abolition ranks. They played the part that decoy ducks play down on the Potomac River. They played the part of these decoy ducks and deceived enough old line Whigs and Democrats to elect a Black Republican legislature" and "Trumbull undertook to dissolve the Democratic party by taking the old Democrats into the abolition camp. Mr. Lincoln was aided in his efforts by many leading Whigs throughout the State. Trumbull was aided by many

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1.- Rhodes, Vol. II., p 62.

2.- Smith, "Parties and Slavery" American Nation Series.



renegades from the Democratic party."<sup>1</sup> The above quotations are sufficient to show the position taken by Douglas and his friends in regard to the new Republican party. The situation undoubtedly furnished the Democrats with a certain amount of political capital. I can find no account of the formation of the republican party in 1856 which would prove that Lincoln and Trumbull deceived their friends as Douglas suggests. The period of the rise of the republican party in 1856 is one of interest; the outcome of principles that were stronger than parties; the one practical thing to serve the need of the moment. Undoubtedly Lincoln and Trumbull were sincere in their efforts and in spite of Douglas's zeal the Democratic party was more or less broken up. Against the storm of anger and confused attack the Democrats fought sullenly. All the troubles, every outrage in Kansas pointed the argument in favor of some congressional limitation of slavery in the Territories.<sup>2</sup> The immediate result of the Kansas-Nebraska Act had been to create a rivalry in the territory opened for settlement and the general idea prevailed that Nebraska would be free and Kansas slave.

In the Senate Trumbull, precise, puritanical, emphatic in the ideas which he knew to be right and clinging to these ideas until they were proven to be wrong naturally became a power, although at first on the majority side with Douglas--on all questions but that of Nebraska he seemed of secondary importance. At his election he had claimed to be a Democrat in every line of policy but the repeal of the Missouri Compromise and this he remained at first.

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1.- Nicolay and Hay, "Complete Works of Lincoln," Century Edition. Vol. I., p 317.

2.- Smith, "Parties and Slavery," p 220.



The next three or four years will show how he changed. Nor was the change arbitrary but the natural development of a position in which he was unable to approve the extension of Slavery into the territories. In the Senate when the Kansas-Nebraska Bill came up again Trumbull arrayed himself with those opposing. Sumner spoke of Trumbull in the following way, "Trumbull is a hero and more than a match for Douglas. Illinois, in sending him does much to make us forget that she sent Douglas. You can hardly appreciate the ready courage and power of this man and the way he grappled with his colleagues and throttled them. We are all proud of his work. His very presence in the Senate Chamber was a visible warning to the slavery propagandists that their long contest of the Democratic party of the North had been broken forever." <sup>1</sup> In all the transactions in the Senate one finds Lyman Trumbull pursuing a sort of great middle course of right with a splendid balance. This balancing process was at times curiously swept aside by the mere intensity of feeling which had characterized his earlier days; but, in general he pursues the path laid out by his reasoning process regardless of obstacles and opposition. One can't help feeling a certain admiration for the great power of resistance and will to do which seemed to hold the man enthralled, and one is struck not so much by the manner of his speech as by the weight of the matter and the profound wisdom which he displayed.

When Congress met in 1856 the situation was highly critical increasing with tension every week. The trouble in Kansas con-

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1.- Sumner's Works, Vol. VII., pp 253 ff.

2.- Smith, "Parties and Slavery", American Nation Series. pp 247.



tinued and even grew worse. Every report of affairs there increased the agitation. The administration made a final effort to deal with the situation and at the end of June, Douglas accepted a bill introduced by Toombs which passed the Senate,<sup>1</sup> July 2 by a majority of 33 to 12, Trumbull voting for it.<sup>2</sup> The Anti-Nebraska element was not, however, ready to abandon the Kansas question to the Pierce administration and Hale, Sumner, Seward, and others made attacks on the pro-slavery parts. The Toombs bill was fair, giving to the people of Kansas the free ballot upon the choice of constitutional convention.<sup>3</sup> Trumbull admitted that "a liberal spirit seems to be manifested on the part of some senators of the majority to have a fair bill," and certainly, in many features, it met his approbation,<sup>4</sup> and he voted for it. Seward, however, ridiculed it and held it to be a "distinct concession, if not a compromise" and turned his influence against it.

Supported by the Dred Scott decision which settled that Congress could not prohibit slavery in the territories Buchanan felt strong in his opinion the next winter that his administration would win in the policy toward Kansas, and so with hope he took up the question of Kansas once more in the Spring of 1857.<sup>5</sup> His course seemed clearly marked by the action of his party on the Toombs Bill in 1856 and by his own statements before and after his election--backed by the declarations of the Democratic Platform.

A constitutional convention at Le Compton, Kansas, drew up a constitution with an express provision concerning slavery and

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1.- Smith, "Parties and Slavery", p 166.

2.- Congressional Globe, July 2, 1856. pp 1012 ff.

3.- Toombs Bill, Cong. Globe, June 30, 1856, ff.

4.- Ibid, ff.

5.- Smith, "Parties and Slavery", p 213 ff.



the right to slaves as property; and the vote was to be taken for the "Constitution" with slavery "or for the constitution without slavery".<sup>1</sup> Stephen A. Douglas, the exponent of popular sovereignty found that to support the Le Compton plan would be to give up his pet idea of sovereignty of the people, in disallowing their vote upon every portion of the constitution, and after Buchanan's message to Congress supporting the Le Compton plan was read, Douglas rose and opposed it. In the meantime a pro-slavery majority had voted upon the Le Compton plan in Kansas. The final outcome was the English bill providing a resubmission of the Le Compton constitution on condition that a forfeiture of lands should be made if the people voted to prohibit slavery; but the Kansas people rose and voted against the constitution, and no harm was done but the whole question stirred up the greatest sort of antagonism between parties in the Senate, and the fact became most significant that Douglas had faced about and supported a point for which the Republicans stood.

Without going into the turmoil caused by the turning of the "Little Giant" from a policy proposed by the Democratic administration, let us take up the most acute situation in the whole decade preceding the Civil War--the Senatorial contest of 1856 in Illinois and the presidential election of 1860. It may be said that these two years show clearly the point toward which the finger of Fate in the form of the slavery question had been directed for twenty years in the development of national politics.

In Illinois each national question was fought out and the entire ground covered in that most brilliant contest, the Lincoln-Douglas Debates.<sup>2</sup> The whole state at large watched Lincoln with

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1.- Smith, "Parties and Slavery", pp 225 ff. American Nation Series.  
 2.- Ida Tarbell, "Life and Works of Lincoln"



astonishment, in fact, the whole country. There were Republicans in Illinois of wider national reputation than Lincoln. Judge Trumbull was better known and had proven himself a good debater. A speech which he made in August against the Douglas Record called from the New York Evening Post the remark, "This is the heaviest blow struck at Senator Douglas since he took the field in Illinois, it is unanswerable and we suspect that it will be fatal." This speech of Trumbull's was afterward printed by the Post in pamphlet form.<sup>2</sup>

In the Lincoln-Douglas debates one finds almost constant reference to Trumbull: Lincoln upholds the political principles of Trumbull and Douglas cast every slur he could. In Lincoln's speech accepting the Senatorial nomination in 1858 he said, "Mr. Trumbull in the Senate, asked the leading advocate of the Nebraska Bill (Douglas) to state his opinion whether people of a territory can constitutionally exclude slavery or not from their limits and Judge Douglas answered that it was for the Supreme Court to decide."

In Chicago, later, Lincoln said "no one Democrat has spoken in favor of Trumbull and his connection in defeating the Le Compton Constitution" and Lincoln goes on to criticize Judge Douglas for not giving just credit to Trumbull and for taking so much glory unto himself. "Judge Douglas forgets to say that Trumbull spoke against the Le Compton constitution before he did."<sup>3</sup>

In opposing the arguments of Lincoln and Trumbull Judge Douglas stated at Freeport. "The Union had claimed that slavery

- 1.- Ida Tarbell, "Life and Works of Lincoln".
- 2.- Lincoln's Complete Works, Nicolay and Hay, Century Edition, June, 1858.
- 3.- Ibid, Putnam Edition, July 1858.



had a right to go into the states. I denounced this. Lincoln's friends Seward, Trumbull, Hale, Wilson and the whole Black Republican side of the Senate were silent."<sup>1</sup> This is not true, although approving and favoring the Le Compton scheme in part Trumbull spoke against the bill, evidently on account of its objectionable parts.

In regard to the present Senatorial contest of 1858 Douglas stated that "the reason Lincoln was chosen so unanimously by the convention was because "They could not get any of Lincoln's friends to make another bargain with rogues unless the whole party would come up as one man, and pledge their honor that they would stand by Lincoln first, last and always and that he should not be treated by Lovejoy this time as he was by Trumbull before. Trumbull is compelled now to take the stump, get up false charges against me and travel all over the state to try and elect Lincoln in order to quiet Lincoln's friends about the bargain in which Trumbull cheated them four years ago. You see why it is Lincoln and Trumbull are so mighty fond of each other."<sup>2</sup> They have entered a conspiracy to break me down by these assaults upon my public character."

The above seems to me easily refuted by the simple proof of Trumbull's loyalty to Lincoln and the personal friendship existing between the two. Trumbull's party spirit aside from any personal feeling he had, would have required his support of Lincoln.

In Lincoln's reply to Judge Douglas there is a positive denial of any connection of either Trumbull or himself with the

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- 1.- Nicolay and Hay, "Lincoln's Complete Works." Putnam Edition, July, 1858.
  - 2.- Nicolay and Hay, "Lincoln-Douglas Debates," Putnam Edition. Vol. IV., p 171 ff.



"Black Republican Platform," as Douglas had alluded to it.<sup>1</sup> The Black Republican Platform had however been drawn up by the strictest sort of abolitionists and Lincoln and Trumbull had not seen fit to ally with them for the reason that if really supported it would be defeated because it was too radical.

Lincoln's estimate of Trumbull is seen in the following quotation, "I personally know Judge Trumbull and believe him to be a man of veracity and sufficient capacity to know very well whether an assertion, he was making, as a conclusion drawn from a set of facts was true or false; and as a conclusion of my own from that; I stated it as my belief, if Trumbull should ever be called upon, he would prove everything he said."<sup>2</sup> Certainly the above may be taken as Lincoln's estimate of Judge Trumbull; and this point, that Trumbull was very careful that the things he said were true, is noticeable always in his make-up.

As a result of the senatorial contest of 1858 Douglas barely carried the day in Illinois but he returned to the Senate with greater prestige than ever because of the great fame the debates had brought to his name; while Lincoln was shown to be a strong character and his defeat now only demonstrated how Fate was simply holding in reserve the Man of the Hour until the Hour should arrive.

The Presidential situation of 1860 brought itself to the attention of the whole state in the nomination of Abraham Lincoln. The event served to bring into the arena all Lincoln's friends and one of the foremost was Lyman Trumbull, who, during the campaign

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1.- Nicolay and Hay, "Lincoln-Douglas Debates." Putnam Edition, Vol. IV., p 163 ff.  
 2.- Ibid, Charleston. Vol. IV., p 171 ff.



spoke frequently from the stump much to the point and in a strongly convincing way. His reputation at home, his experience in the Senate and the added poise which he had gained all made his arguments the more weighty and his influence did much for Lincoln in Illinois. With Lincoln's election to the Presidency, Lyman Trumbull as the Republican Senator from Illinois, became naturally the mouth-piece of the President-Elect and the constant bearer of his standard.<sup>1</sup> He it was, and who, with other trusty friends of Lincoln in Washington, kept him informed of events as they occurred during the period between the election and the inauguration.

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1.- Nicolay and Hay, "Abraham Lincoln--A History." Century Co.  
Vol. III., p 252 ff.



## II.

At the election of Lincoln the North had spoken. Because slavery was wrong the majority of the northern people declared against it. But this did not simplify matters for South Carolina quickly made answer and it became evident that she was preparing for war. Amongst her political leaders discussion and secession seemed the only way to preserve the honor and pecuniary interests in the South.<sup>1</sup> Even before the October elections the South seemed so sure of events that she even then prepared for war. While Republican success seemed certain the actual event caused a shock that was not lessened by the fact that it had long been threatened. In spite of the fact that they were glad the crisis was reached, amongst the leading men of the South there was actual anxiety for the future. In South Carolina the legislature continued in session to be ready for any emergency. Action was taken toward putting the state on a military footing and secession became after this, no longer a choice but a necessity.<sup>2</sup> It is a striking fact that the misunderstanding between the North and the South went so far that fully eleven twelfths of the North, since the annexation of Texas, thought that the South had lorded it over the North while the South during this time was convinced that the North had been overbearing in every way.

At the North, after the elections of October, there pre-<sup>3</sup>vailed an opinion that South Carolina would inevitably secede. On

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1.- Rhodes, "History of the United States." Vol. III., p 360.

2.- Ibid, Vol. III., p 363.

3.- Ibid, Vol. III.



November 8, there came a message from Colonel Gardiner in control of Fort Moultrie advising that additional men should be sent down at once. Attorney General Black, at a meeting of the Cabinet, urged upon Buchanan the "necessity of sending a strong force of men into the Forts in Charleston Harbor at once," but Buchanan hesitated.<sup>1</sup> Never in the course of our country's history has the path of an executive been so obviously laid out. There seemed but one way to solve the question now confronting Buchanan but still he remained inactive. Gross carelessness or wanton neglect must account for his not sending for General Scott and deciding upon some course of action at once.

When November came Buchanan finally did send for Black to consult him concerning the public safety.<sup>2</sup> Black himself condemned the President for his inaction. Four hundred soldiers could easily have been sent and a policy of action thus set on foot. But the garrisoning of the forts in Charleston Harbor would, in Buchanan's mind, have driven other states in the South to secede. This is not true. There is a possibility that the South might have been delayed had the President set out to protect the public property and collect the duties as usual in South Carolina, at the same time recommending some form of compromise which would quiet the intense feeling in the South. The case was one in which the executive should have done a certain duty disregarding the consequences.

In Buchanan's annual message, instead of attempting to present some adequate form of action to be followed in dealing with

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1.- Nicolay and Hay, "Complete Works of Lincoln", Vol. II., p 360.  
 2.- Rhodes, "History of the United States." Vol. III., p 239.



the South, he delivered what may be called an essay on constitutional law.<sup>1</sup> "Why is it, that discontent, now so extensively prevails, and the Union of the States, which is the source of all blessings, is threatened with destruction?", he asks. "How easy would it be for the American people to settle the slavery question forever and to restore peace and harmony to this distracted country. All that is necessary to accomplish the object, and all for which the slave states have ever contended, is to be let alone and permitted to manage their domestic institutions in their own way. As sovereign States, they, and they alone are responsible before God and the World for the slavery existing among them. For this the people of the North are not more responsible and have no more right to interfere than with similar institutions in Russia and Brazil." 2

The above will show the off-hand fashion in which Buchanan treated in his fourth annual message, the really all important question of dis-union. The remainder of the message is devoted to a long discourse on the constitutional powers of Congress and avoids all further reference to secession.

On November 23, Major Anderson demanded that Forts Moultrie and Pickens be garrisoned, if command of the harbor was to be kept by the North.<sup>3</sup> Buchanan still insisting that the southern discontent was due to a northern agitation over slavery, should now, if ever, have asserted himself.<sup>4</sup> If he had acted with strength the people might have forgiven him any desire he had to compromise.

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- 1.-"Messages and Papers of the Presidents." See Buchanan, Dec. 1860.
  - 2.- Ibid, p 626 ff.
  - 3.- Rhodes, "History of the United States." Vol. III., p 247.
  - 4.- Fourth annual message, "Messages and Papers of the Presidents." Vol. V., p 630.



Firm action might have averted war and the pending calamities-- but not alone--although it appeared so to Lyman Trumbull, when in the Senate he stated that if Fort Sumter had been held sooner no drop of blood would ever have been shed and he said that the President might have averted war if he had only possessed the courage<sup>1</sup> to protect the Harbor at Charleston and face the question frankly.

The weight of sentiment tends, however, to the belief that the day of compromise was passed and the last resort had come. Buchanan probably feared the conflict and did not care to have it begin while he was in the President's chair nor during a Democratic<sup>2</sup> administration. During the last four months of his office inaction was his policy, and yet all this time the South was busily preparing for war. The President's message satisfied many men at the North who believed that the course of inaction was a possible chance of diverting war.

After the election the question which occupied the minds of all was "What would the Republicans do to prevent disunion. There were three points of view which I will state briefly. First; that the election of President Lincoln was fair and the South should submit to it with grace. A second opinion, which was represented by Horace Greely, was that the States which wished to secede should be allowed to go in peace and that no State should be coerced against<sup>3</sup> its will. In the Tribune he came out with his opinion that if fifteen of the slave states or even the eight cotton states should quietly and decisively say to the rest "We prefer henceforth to be separate from you," we should insist that they go in peace. War,

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1.- Congressional Globe, March 7, 1861. p 873 ff.

2.- Rhodes, "History of the United States." Vol. III., p 410 ff.

3.- Ibid, Vol. III.



to him, was a hideous necessity at best and a civil conflict "a<sup>1</sup> war of estranged and embittered countrymen." If the cotton states should generally untie with the South in seceding they should not<sup>2</sup> be prevented and the attempt to prevent them should not be made.

This opinion of Greeley's was held by many in the North for outside of Lincoln and Seward, Greeley was very powerful in his influence.<sup>3</sup> He held the idea that the states should be allowed to go in peace until January 1861 when it had been demonstrated to him that a peaceable disunion, by the acts of war already committed, was beyond the question.<sup>4</sup> The third point of view was one of compromise.<sup>5</sup>

Thus affairs stood when Congress met in December, 1860. Trumbull writing from Washington to Lincoln in Springfield tried to assure him that the secession movement should cause no alarm although he admitted that Weed and Greeley expressed great anxiety over the state of affairs.<sup>6</sup>

"A good feeling prevails amongst the Republican Senators," he wrote, "The impression with all, unless there be one exception is that the Republicans have no concessions to make or compromise to offer and that it is impolite even to mention making them. I was a little surprised that the House voted to raise a committee on the state of the Union."....."Inactivity and a kind spirit is, it seems to me, all that is left for us to do till the fourth of March."<sup>7</sup> The one exception to whom Trumbull refers is Seward, for all during this period Seward, in the Senate, and Kellogg, in the

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1.- New York Tribune, November 16, 1860.

2.- Ibid, November 30, 1860.

3.- Rhodes, "History of the United States." Vol. III.

4.- New York Tribune, January 5, 1861.

5.- Rhodes, "History of the United States." Vol. III., p 144.

6.- "Nicolay and Hay" Vol. III., p 252 ff.

7.- Ibid, Vol. III., p 254.



House, were agitating compromise. Greeley in the New York Tribune<sup>1</sup> condemned Kellogg's operations as being idiotic.

So the President had failed to rise to the occasion and secession was inevitable. The general idea prevailed that Lincoln would not lower the Republican standard but there were still three months to tide over until President Lincoln should take the helm and Republicans in the Senate and House did not feel that they could sit idly and let the days pass without action of some kind.<sup>2</sup>

The grievances of the South when finally looked at were the interference with the Fugitive Slave law and the denial of the North that slaves could be considered property in the territories. If the interference with the Fugitive Slave Law in the Personal Liberty Laws had been the only grievance the trouble might have been remedied and secession avoided but this was not so.

Early in the session came up a discussion of the repeal of Personal Liberty Bills.<sup>3</sup> Robert Toombs urged that the North should recognize the slave holders property in slaves in the territories and he was ably supported by Jefferson Davis. A number of schemes were proposed by which this question could be dealt with but the most famous was that of Senator Crittenden of Kentucky.<sup>4</sup> Of all the plans offered, acceptable to South Carolina and the other cotton states, this one was the fairest to the North. The bill was presented in the Senate, December 18 and the most striking thing in it and that which caused the most "discussion was its disposition of the territorial question.

- 1.- New York Tribune, December 16, 1861.
- 2.- Nicolay and Hay. Vol. III., p 256 ff.
- 3.- Congressional Globe, December 18, 1860. p 114 ff.
- 4.- Ibid, December 18, 1861. p 115.



Article one of the amendment provided that slavery should be prohibited in all the territories of the United States situated north of 36 ° 30'; South of that line slavery should be recognized as existing and should not be interfered with by Congress, "but shall be respected as property by all the departments of the territorial government during its continuance."<sup>1</sup> Thus states were to be admitted either north or south of the 36°30' with or without slavery, as their constitutions might provide.

Article two of the bill provided that Congress should have no right to abolish slavery in places under its jurisdiction and situated within the limits of states that permit the holding of slaves. Article three provided that Congress should not have the power to abolish slavery in the District of Columbia without compensation to slave owners and without the consent of its inhabitants, of Virginia and Maryland.

Other articles were introduced in the bill but these three I have mentioned were the cause of the most vehement part of the discussion which occurred after their reading. While some were convinced that the only way to preserve the Union was by some such measure others were ardently opposed. Lyman Trumbull was one of the foremost amongst those opposing a compromise. A member of the Judiciary Committee since he came to Congress, precise in his thought and a keen lawyer he was listened too with great respect although there was none of the charm or fascination which go to make up a great statesman.<sup>2</sup> Trumbull argued many times against the compromise and against the Toombs arguments in favor of it. Trumbull found it necessary to reply to the most inflamed speeches at a time

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1.- Congressional Globe, December 18, 1861, p 175 ff.

2.- Trumbull was also member of "Patents and Patent Office Committee" See Globe, December 6, 1860. p 23.



when he considered it necessary to keep from the Senate any discussion which would call forth sectional antagonism.

On January 10, when a message was read in the Senate on the State of the Union, Trumbull rose and in his characteristically precise manner said that he believed that the government should have acted with more decision at the outset, that property in Charleston should have been protected at once.<sup>1</sup> South Carolina had no right to secede and it was nothing but rebellion. "The Senator from Mississippi," said he, "thinks the United States should withdraw her forces from the South, surrender forts, and strike the flag under which he was nurtured. The stars and stripes have been taken down from the United States Buildings in Charleston and have been trampled in the dust."<sup>2</sup> He expressed himself clearly on the point that if constitutional liberty was to be maintained and the freedom of the government preserved as faction, no state should be allowed to trample the flag under foot.

In regard to the doctrine of secession he said that, although there was no prohibition in the Constitution against a state seceding, if a state seceded, it must be argued that she was sovereign and independent and in such a case of what use was a constitution at all, if the states were not to be held by it. So, if not in the letter, at least in the spirit and character of the government of the United States Trumbull held there was an express and positive prohibition against secession and no state could exercise her sovereign power in this respect. "Secession is utterly destructive of constitutional government. On the same principle a

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1.- Congressional Globe, January 10, 1861. p 313 ff.

2.- Ibid, p 315.



county may secede from a state and a town from a county .....no  
 one proposes to coerce a state." <sup>1</sup> Trumbull felt that all honorable  
 effort should be made to avert civil war and that the southern  
 states should not be asked to submit to things the North would not  
 submit to under like conditions. Concerning the right in territories  
 he felt that the territories were the possession of the general  
 government and that states, as such, had no right in them. He ex-  
 pressed his willingness to reenact the Missouri Compromise, as  
 suggested in the first part of the Crittenden Compromise because  
 the effect of it would be only to exclude slavery from Kansas and  
 Nebraska. But in essence the Crittenden Compromise was different  
 from this for by it, Trumbull argued that the South had the entire  
 control of the government. "Why is it, that the government is to  
 be dissolved and civil war inaugurated?" <sup>2</sup> We must stand by the  
 compromises we have made and not change them. Crittenden's propo-  
 sition is to amend the constitution in an unconstitutional way." <sup>3</sup>

The Crittenden plan proposed amendment by a majority vote  
 and Trumbull said that this was forbidden by the Constitution. His  
 idea of preserving peace was distinctly not to yield to the threats  
 of the states demanding compromise--but to rally around the Consti-  
 tution and enforce the laws under it, and then, not when states  
 threatened civil war but when they all acknowledged themselves under  
 the Constitution and Union, to redress their grievances and not be-  
 fore. "I do not believe there is any cause for these complaints in

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1.- Congressional Globe, January 10, 1861. p 314 ff.

2.- Ibid, p 316.

3.- Referring to the Compromise of 1850, etc.



the South. I do not believe there is any intention on the part of the incoming administration to make slaves of the southern people or to interfere in any manner with their rights. We have said this over and over again." <sup>1</sup> In regard to the Fugitive Slave Clause of the Crittenden Compromise he expressed the belief that under Lincoln it would be enforced with greater rigidity than it had been under Buchanan or Pierce. Under the administration of Buchanan the Fugitive Slave Statute had been enforced in an extremely obnoxious manner, obnoxious to the great majority of the northern people in its violence. Mr. Lincoln had said that as long as the Fugitive Slave Statute stood it was his duty to enforce it and he felt that the slave owners under the constitution were entitled to a reasonable law in that respect. <sup>2</sup> This view Trumbull took pains to impress upon the minds of the Southern Senators and continued "for my life cannot see reason for all this agitation in the country and for states threatening to go out of the Union--unless it be simply the fact that the Republican Party has elected its candidate for president." He tried to pour oil upon the troubled waters by assuring the South now and at every turn that the incoming administration would try to show by its acts that no overbearing policy in regard to them was meant. And when he failed to check the discussion over compromise by these assurances he made simple endeavors to postpone discussion until the President's inaugural should outline a plan of action.

Concerning a petition for a peace conference which came up pending the discussion on the Crittenden Compromise he could not see that this petition should be regarded in the light of a bill as

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1.- Congressional Globe, January 10, 1861, p 316 ff.

2.- Nicolay and Hay, "Life and Works of Abraham Lincoln" Vol. III.



some of his colleagues insisted upon regarding it. "This must be treated the same as if offered by an individual senator.....No good will come in discussing it.....for it is gotten up to satisfy the border states and these states, namely, Virginia and Missouri, oppose it. Therefore what use can there be in discussing such a measure."<sup>1</sup>

Meanwhile the question of compromise was uppermost in the minds of almost all the leading senators in Congress. Lindoln's influence in the march of events must be taken into account all through this period.<sup>2</sup> There is scarcely any doubt that, if the Crittenden Compromise had been presented as a Congressional enactment rather than a constitutional amendment, it might have been accepted by him and those who supported him but the objections were strong. First, the phrasiology of the whole bill was in terms of "slave" and "slavery", very dangerous words to put into the constitution. Of course this was a purely superficial fault but it had great weight. The Compromise would not be acceptable to the South unless it could know that the protection of slavery would actually be held in future territorial acquisition south of 36° 30'. The Republican did not merely object to the Crittenden compromise but offered one of their own in which they urged that the constitution should here be altered to authorize Congress to abolish slavery, that the Fugitive Slave Law should be amended giving jury trial and that Congress should recommend to the states a repeal of the Personal Liberty Acts.<sup>3</sup>

On March the second, Trumbull rose to make a long speech

1.- Congressional Globe, January, 1861. p 1352.

2.- Rhodes, "History of the United States." Vol. III., p 427 ff.

3.- Congressional Globe, January 10, 1861. Bill No. 80.



on compromise concerning House Resolution No. 80--whereby "no amendment shall be made to the constitution which will authorize or give to Congress the power to abolish or interfere, within any state, with the domestic institutions thereof including that of persons held to service by the laws of the said state."<sup>1</sup> He said that he agreed entirely with Mr. Crittenden in favor of the Union and its preservation and the maintenance of the Constitution and that no man could exceed him in devotion to the Constitution and the Union but that it was foolish to suppose that compromise would be made and concessions yielded when he talks of the great party of this Country constituting a majority of its people as being wedded to a dogma set above the constitution--when he talks to us of usurping all the territories as ostracizing the people of the South and denying them their rights.

Trumbull thinks that if it is a trifle for the North to concede as Mr. Crittenden and others had suggested, it was hardly more than a trifle for the South to demand, to obtain which it was willing to destroy the Union. The charge had frequently, during the debate, been made against the North of a desire to usurp the whole of the common territory and had as often been refuted. Trumbull argued that the territories did not belong to the states at all; that they were the property of the general government. Ever since 1832 when South Carolina attempted to secede there had been more or less of the secessionist element. In 1850 it was agreed to drop all talk of slavery in the Senate but this agreement had not held for the Kansas-Nebraska Bill had brought the question

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1.- Congressional Globe, March 2, 1861, p 1380.



up again. Trumbull went on to say that "it led to war in Kansas and the burning of towns and from that day the doctrine of squatter-sovereignty has been preached all over the United States. All the various disturbances have been put down and here in 1860 a law would have been enforced had the government done its duty and not acted in complicity with the men who had resolved to destroy the Union."

He accused Buchanan of irresolution and indecision, one day sending a vessel with troops to Charleston and the next countermanding the order. And he laid the blame on the administration for the strength which the secession movement had gained. It was either because the administration approved secession or because it refused to do anything to check it. Remedies had been proposed but they had all been of a compromising nature. "The Senators have spoken for peace and some for the horrors of civil war.<sup>1</sup> They come forward with propositions to divide the country on a geographical line and to establish slavery south of that.<sup>2</sup> I have no objection to the restoration of the Missouri Compromise as it stood in 1854 when the Kansas-Nebraska Bill was passed. Since the Crittenden Compromise has introduced a line dividing the territory I suppose we shall hear no more about the Missouri Compromise. The Crittenden Compromise declares that not only in the territory now south of the line shall slavery be recognized but also in all future territory acquired south of that line.

Trumbull said that he could never agree to put in the constitution a clause establishing or making perpetual a slave by

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1.- Congressional Globe, March 2, 1860. p 1381.

2.- See first article of Crittenden Compromise. Congressional Globe. 1860-61, p 115.



his vote and so he could not vote for the Compromise. He urged that the people of the North should be made to understand that their services were required to maintain the Union and that the people of the South should be made to understand that the Union would be maintained. His remedy for the existing difficulties lay in the suggestion that Congress clothe the government with sufficient power to maintain itself and when this was done and an executive in power with a disposition to maintain the authority of the government, he felt that there would be absolutely no need for guns or war to stop the further spread of secession. "I believe that after the new administration goes into operation and the people see by its acts, that it is resolved to maintain its authority, and at the same time make no encroachments whatever upon the rights of the people of the South, the desire to secede will subside." <sup>1</sup> How short-sighted in Trumbull not to see that the impetus which secession had already gained would serve to carry it a long way. It may be that these remarks do not reflect Mr. Trumbull's true feeling and that they were simply a part of his continuous effort to allay the ferment. He said that while the South claimed to abhor anything like a civil war it had actually begun it. He expressed his belief that this insane attempt to heal up the government would not succeed.

The actual outcome of the Crittenden Compromise in the Senate was a vote of twenty to nineteen against. <sup>2</sup> The bill (H.R. NO. 80.) called a thirteenth amendment which had been introduced by the Republicans as their idea of Compromise by which Congress was prohibited from interfering with slavery in the territories, was not

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1.- Congressional Globe, March 2, 1861. p 1384 ff.

2.- Ibid, p 1386.



concession enough to the secessionist members and failed to be supported by many Republicans because it was a compromise.<sup>1</sup> Trumbull voted against this concession. It may be said that it failed of its purpose during this session but the question it had presented stayed in the minds of the Senate and reached its culmination in the thirteenth amendment adopted near the end of the war by which slavery was abolished. Buchanan would have been glad to see the Crittenden Compromise or some form of it pass as an actual prevention to war during his administration but he was so wavering that he was a bar to any settlement rather than a help. He shrank from asserting the power of the government in any way though he realized the pressure of the country upon Congress for a compromise was very strong.<sup>2</sup> While the more radical Republicans were strong enough to stifle any leaning there was in their party toward the Crittenden plan, they could not bring all their associates to their own policy of no concession whatever.

The peace convention which had sat for a long time behind closed doors meanwhile recommended its amendment which was less acceptable to the South than the Crittenden Compromise and yet, not satisfactory to the radical wing of Republicans.<sup>3</sup> Presented by Crittenden on March 4, 1861, it received an overwhelming negative vote against seven yeas, with Lyman Trumbull voting against it. The radical Republicans had been opposed to it from the first, when it was presented in an undeveloped form.<sup>4</sup>

Blame has been laid upon the shoulders of Jefferson Davis and Toombs for the defeat of the Crittenden Compromise for they

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1.- Congressional Globe, March, 1861.

2.- Rhodes, "History of the United States." Vol. III.

3.- Ibid.

4.- Congressional Globe, March 4, 1861.



voted with the Republicans against the first article of the amend-<sup>1</sup>  
 ment--that Congress should not prohibit slavery in the territories.  
 Crittenden had firmly believed that civil war would be averted by  
 the passage of his bill. "It may not satisfy South Carolina," he  
 had said, "for hers is a peculiar case. But I believe it will  
 satisfy almost all the other southern states, at any rate, to such  
 an extent that there will be no further revolution."<sup>4</sup>

There seems to be a good share of responsible opinion<sup>2</sup>  
 that the Crittenden Compromise would have accomplished its purpose.  
 It is true that the most of the Republicans in Congress favored a  
 no compromise policy. Horace Greeley wrote "Three quarters of a  
 century of great men have passed away and left behind them no name  
 which will be deemed when the heat and passion of the day are passed,  
 more deserving of the recollection of a grateful people than those of  
 Wade, Fessenden, Clarke, Wilson, King and Trumbull."<sup>3</sup>

It was these men who, from December to April stood in the  
 Senate unflinchingly for no compromise with the South, for a rigid  
 adherence to the constitution and the preservation of the Union and  
 for the fairest sort of dealing with the South. Trumbull in all  
 these debates is noticed particularly as grasping the situation  
 with a keenness, courage and frankness which shows his indomitable  
 desire to get at the heart of things. His attitude was one of com-  
 plete agreement with the policy of Lincoln as it was outlined after  
 his inauguration. Spurred on by his desire to pursue the right  
 course, his contributions to the debates of this session are numerous

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1.- Congressional Globe, March, 1861. See final vote on Compromise.

2.- Ibid, January 7, 1861. p 267.

3.- Rhodes, "History of the United States." Vol. III.  
 Seward, "Life and Works" Vol. III. Edited by Baker.  
 Bancroft's "Life of Seward."

4.- New York Tribune, March 5, 1861.



and of the greatest weight.

So absorbed was the Senate in the discussion of compromise in the various forms offered for preservation of the Union that only casual attention was given to other things. The Pacific Railroad<sup>1</sup> came up for discussion in January and the early days in February. A project was presented for appropriating money for building roads to the Pacific Coast. This was not the first time the plan had been presented but at this particular session the question was whether there should be three routes, one or only two routes. Lyman Trumbull spoke in favor of the railroad but, from an economical point of view, urged the construction of one good central route.<sup>2</sup> "I am in favor of one railroad to the Pacific and I think there should be one great central route, but if you are to have a central and a southern road, the upper portion is entitled to a northern route. But I think we should confine the proposition to one railroad to the Pacific."

Meanwhile it became evident that the government must have more money at her disposal if the war was to be carried on, and in February a bill was presented providing for a Tariff duty on sugar and other things.<sup>3</sup> On February 20, a debate took place on this bill in which Lyman Trumbull seemed up in his carefully adjusted manner the situation and his views upon such a tariff. He argued that tea and coffee were not so great a necessity in every day life as sugar was and should therefore have the duty imposed rather than the latter. "I am willing to put a duty on all three to raise the

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- 1.- Congressional Globe, January, 1861. pp 522, 523, 526, 610, 613, 614, 615.
  - 2.- Ibid, p 615.
  - 3.- Ibid, February, 1861. p 1030 ff.



necessary revenue. I am willing to stand by the duty which was laid on tea and coffee but if either article is to come in free I insist on its being sugar. Sugar enters into more general use than tea and coffee and is therefore more necessary. I am willing to strike out all three or put duty on all three but there is more reason for having sugar free than for having coffee and tea free."<sup>1</sup>

On the 4th of March Lincoln was inaugurated. His address to which careful heed had been given for some time was received by the eager crowds with enthusiasm.<sup>2</sup> In his address he proclaimed first that he had no purpose to interfere directly or indirectly with slavery in any state, that he expected to enforce the Fugitive Slave Law. He held that Union was perpetual and that no state could lawfully get out of the Union and that resolves to that effect were legally void. "Acts of violence against the authority of the United States are insurrectionary and revolutionary. To the extent of my ability I shall take care, as the constitution itself expressly enjoins upon me, that the laws of the Union be faithfully executed in all the states.....In doing this there need be no bloodshed or violence and there shall be none unless forced upon the national authority." He said that it was impossible, physically speaking, to separate and put in the hands of the people the momentous issue of the war. "We are not enemies, we must be friends."

Thus was launched formally the policy of the government in regard to the war. In every respect how faithful to the views already so confidently expressed by Trumbull and others in the Senate. The policy which Trumbull advocated these four months from

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1.- Congressional Globe, February 20, 1861. p 1054.

2.- Rhodes, "History of the United States." Vol. IV., ch III.

3.- "Papers and Messages of the Presidents." Richardson. Vol. VI. 65.



December, 1860 to April, 1861, are identical with those lines laid down by the President in his first inaugural address. With the adjournment of Congress in March there was a feeling on the part of the Republicans in the North of utmost confidence in the President although there was a faction advocating still the policy of conciliation, represented by Seward and Cameron in the Cabinet. We will see how this policy of conciliation was forced in the next two or three months to take the background.



### III.

During the months December 1860 to March 1861 the confederate movement progressed rapidly. A government was established<sup>1</sup> in the south and a constitution adopted on March 4, 1861.

When Lincoln took his oath of office in March he had two distinct purposes in mind; first, to hold Forts Sumter and Pickens and second, to retain the border slave states and North Carolina, Tennessee and Arkansas in the Union. But with the rapid development of affairs in the Confederacy and the final firing upon Fort Sumter and its fall, he found it necessary for the unity of the north to assert the national authority in a way he had not at first thought necessary. The question had come up in the Cabinet how best to meet the secession movement. Seward had believed for some months that he was the only man who could save the union and that the so called peace policy was the only way out of the predicament. After the firing upon Fort Sumter he too realized the inadequacy<sup>2</sup> of his theories.

After the firing on Sumter all the north became convinced that the time for argument and compromise was over and accepted the policy which the affair thrust into its hands.<sup>3</sup> On Monday April 15, 1861 President Lincoln issued a call for 75,000 militia for three months service to suppress "combinations obstructing the execution of laws in seven states;" together with a proclamation declaring a state of insurrection and convening Congress for July 4,

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1.- Rhodes, "History of the United States, Vol. III.

2.- "Life of Seward" Frederic Bancroft. II. p. 159.

3.- Rhodes "History of the United States. Vol. III. p. 435.



1861, deeming the extraordinary occasion a necessity for it, but before the fourth of July came and brought Congress together in special session it was necessary for the President to ~~do~~ many acts, which in the strict letter of the law, were not within his prerogative.<sup>1</sup> Horace Greeley adequately<sup>2</sup> summarized the situation in the following way, "The Federal government, having exhausted every form of forbearance will now do its sworn duty with energy and promptitude; the call for troops will be zealously responded to. The war, which the Rebels have insanely begun is a terrible necessity. Let it be as short as possible."

War, thus actively set on foot was carried on in the same way in which it was begun. On April 19th, in answer to Jefferson Davis's proclamation against merchant marines of the United States, President Lincoln declared a blockade of southern ports from South Carolina to Texas inclusive "with a view to the same purpose (preserving the union and enforcing the laws) before mentioned and to the protection of the public peace and the lives and property of quiet and orderly citizens pursuing their lawful occupations, until Congress shall have assembled and deliberated on the said unlawful proceedings or until the same shall have ceased."<sup>3</sup>

From this point the war movement gained great force and troops began to pour into Washington from all points. The proclamation of April 19, was followed by one April 27th; establishing a blockade of the ports of Virginia and South Carolina in addition to those already established/<sup>4</sup> This was followed on May the third,

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(p. 13.

1.- Richardson "Messages and Papers of the Presidents. Vol. III.

2.- Ibid. p. 14.

3.- New York Tribune, April 16, 1861.

4.- Richardson "Messages and Papers of the Presidents" Vol. VI. p.15



by a proclamation calling for forty two thousand, thirty four volunteers for three years service. An increase of the regular army of twenty two thousand, seven hundred and fourteen and, of enlisted seamen, eighteen thousand.<sup>1</sup> Such action, though clearly beyond the President's prerogative from a constitutional point of view received the approval of the north and both the New York Tribune and the Times commended him upon his promptitude.<sup>2</sup> Previously, when the blockade of ports had been extended to Virginia and North Carolina the feeling in the south had been that the north was unconstitutionally attempting to make sovereign states do that which they had resolved deliberately not to do.<sup>3</sup> On the other hand one can't help thinking how great was the task the north had had thrust upon it. It was somewhat gratifying to know that the President acted as he did and that there would be no <sup>ter</sup>inference from England in favor of the confederate states.<sup>4</sup> That she would remain neutral was certain although, when the blockade had first been declared by Lincoln it had seemed that England would take up arms.<sup>5</sup>

Throughout this period from March to July, 1861, the President adhered as much as possible to the strict provisions of the law.<sup>6</sup> We see this in his command of April 15, to the insurgents to "disperse and return peaceably in twenty days, and in his declaration of a state of insurrection, a constitutional proceeding.

On July 4, as called by the President, Congress met in special session to deal with the extraordinary state of the Union.<sup>7</sup> On July 6, the committees were appointed. Lyman Trumbull was made

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- 1.- Richardson, "Messages and Papers of Presidents" Vol. VI. p.16,17
  - 2.- New York Tribune, May 4. New York Times, May 5, 1861.
  - 3.- Rhodes "History of the United States. Vol. III. p. 452.
  - 4.- Ibid. p. 453.
  - 5.- Seward's Works. Vol. III. 7.- Congress. Globe. July 4, 1861
  - 6.- Richardson "Messages and Papers of Presidents." Vol. VI. p. 13.



chairman of the Judiciary Committee, a position of eminent importance, in which a strong, able man could do much to wield influence for good. Besides this he was appointed on the committee on Post<sup>1</sup> Offices and Post Roads.

In the President's special session Message he stated the condition of the Union and said that, believing it to be an imperative duty upon the incoming executive to prevent, if possible, the consummation of this attempt to destroy the Federal Union, a<sup>2</sup> choice of means to that end had become indispensable. This choice was made and had been declared in the inaugural address. The policy chosen looked to the exhaustion of all peaceful measures before a resort to any stronger ones.<sup>3</sup> The president now asked for four hundred thousand men and \$400,000,000 in order to make the contest short and decisive and Congress gave him authority to enlist 500,000 volunteers and a loan of \$250,000,000.<sup>4</sup> The Tariff duties were increased and a direct tax of \$20,000,000 was imposed and an income<sup>5</sup> tax levied.

The President spoke in his message of his own extraordinary acts. He believed that the call for 75,000 militia of April 15, and the blockade of April 19 were legal acts, permitted him by the constitution but the call for three years troops and the increase of the regular army and navy were measures which, if not within his constitutional power, he had confidence Congress would soon<sup>6</sup> ratify. He had deemed it necessary to the public safety to suspend the writ of Habeas Corpus--However he did hold that this<sup>7</sup> was constitutional.

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1.- Congress. Globe. July 6, 1861.

2.- Richardson "Messages and Papers of Presidents" Vol. VI. p.20-29

3.- Ibid. p. 21.

4.- Congress. Globe. July 1861. 7.- Ibid. p. 26.

5.- Ibid. July 21, 1861.

6.- Richardson "Messages and Letters of Presidents." Vol. VI. p.25.



From the first of the session the subject of the President's acts between April and July, 1861 became the point around which all discussion in the Senate revolved. A joint resolution was introduced at once "to approve and confirm these acts."<sup>1</sup> The extreme Democrats opposed approval violently but their arguments had little real force when the actual state of the Union and the necessity for action were considered.<sup>2</sup> The chief ground of difference lay between those who supported the war and not with those who opposed it. The legality of the call for 75,000 and the blockade were not questioned but lawyers within and without the Senate disagreed concerning the suspension of the Writ of Habeas Corpus.<sup>3</sup> The majority believed that the increase of the army and navy and the call for three years volunteers was within the power only of Congress and not a presidential prerogative.<sup>4</sup>

The bill to provide for a resolution approving the acts of the President was introduced as Bill No. 1., July 10, 1861 and named the extraordinary acts of the President in the order of their occurrence, offering a suggestion that they be declared valid and legal as if they had been done by Congress itself.<sup>5</sup> It is remarkable that the Senate acted so much as one in the final passage of this resolution since, in doing these acts, the President had gone far beyond his constitutional powers and had actually encroached upon the prerogative of the legislative hands.

Lyman Trumbull, since Seward's promotion to the cabinet and Lincoln's election had become the leading Republican in the

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- 1.- Congress. Globe. July, 1860. p. 40.
  - 2.- Ibid. July 6-July 30.
  - 3.- New York Tribune, July 22, 1861.
  - 4.- Congress. Globe. July 13-27, 1861.
  - 5.- Ibid. July 10, 1861.



Senate and because of his friendship for Lincoln and his complete knowledge of his policy became a leader in all debates. Forceful in argument though not in the manner of his speech; clear-headed and cool, with the experience of service added to his splendid legal knowledge, he had great influence over his colleagues. He realized at this time the necessity for efficient and immediate action in putting down the rebellion and to this end pushed the debates, impatient with delay and anxious for definite accomplishment.

On July 30 he rose to discuss the Insurrection and Sedition Act, which was closely allied to the bill approving the acts of the President since its aim was to provide for the legal basis<sup>1</sup> of such actions in the future. "I am for standing by the constitution and putting down this rebellion in a legal and constitutional way. I believe that the constitution contains all the power necessary to suppress even this gigantic rebellion and the object; this bill is to confer the necessary power upon the military authorities; in cases of insurrection and rebellion to suppress them, and to regulate as far as practicable by law the exercise of those powers. The chief object of the bill is to put down rebellion in a constitutional and legal way."

In the present insurrection the president had sworn to do his duty and to take care that the laws were faithfully executed and to use all his constitutional powers to preserve the constitution and the government from overthrow. He admitted that the executive had been compelled to and had done acts for which it was difficult to find, in the strict letter of the law, the authority

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1.- Congress. Globe. July 30, 1861.



but he justified these acts on the grounds of necessity. Thus the increase of the army and navy had to be done to insure the public safety as did also the suspension of the writ of Habeas Corpus. Trumbull argued that these acts were absolutely necessary when Congress had not assembled.

But now that Congress had assembled clothed with the proper authority necessary to crush the rebellion, it was derilect of the Senate to go home again without regulating by law the acts of the President. These could be no excuse for the executive when Congress met, in exercising questionable authority and Congress should use the high powers vested in it to clothe the executive with all the authority necessary to preserve the government. He justified all the President's acts on the great principle of self defence and showed that unless the rebellion had been ward off it could have destroyed the government. Now that Congress had assembled, however, it had a duty incumbent upon it which it could not shirk, namely to provide by law for the putting down of the rebellion. "The powers in the constitution are to declare war, make rules concerning capture on land and water, to raise and support armies, to make rules for the government of land and naval forces; to provide for the calling forth of militia to execute the laws of the Union, suppress insurrection and repel invasions; Congress has power to make all laws which shall be necessary for carrying into execution the foregoing powers, and all other powers vested by the constitution in the government of the United States or in any department thereof."

He went on to say that the constitution also provided that the Writ of Habeas Corpus might be suspended in cases of



rebellion and invasion and when the public safety required it; when war began and the army was called into the field it could not wait for the operation of the courts and the Habeas Corpus must be suspended. The courts must not interfere. Trumbull further argued that by act of Congress, whenever the laws of the United States were opposed, or the execution thereof obstructed in any state, the President might call forth the militia of any state or states for a period of three months. Under this provision the president had issued his call for 75,000 men, in the first place for the purpose of suppressing the rebellion then existing.

The Supreme Court had approved the act of the President twelve years before in a decision covering Rhode Island and Martial Law. Trumbull pointed to this as an express decision confirming the military power to interfere in any case where the civil authorities were overborn and the power to arrest anyone on reasonable grounds of belief that he was engaged in insurrection. He affirmed that Lincoln had done nothing more in calling out the 75,000 than was done in the case of Rhode Island upon which case the Supreme Court had delivered its opinion. The case, covered in his estimation, every feature of the bill under consideration, the first section of which declared that the commanding officer, the general of the army of the United States, and other commanders<sup>1</sup> had the power to declare a state of insurrection.

The bill was continued from time to time, Lyman Trumbull constantly urging some definite and immediate action, that the executive might be clothed with the powers necessary to crush the rebellion. He wished not only to impress upon Congress the duty it

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1.- Congress. Globe. July 30, 1861.



had to provide for future cases arising, in this same way, but wished, for the sake of public opinion, and for the sake of the President himself, to have the President justified, in a formal way, upon the power he had exercised previous to the special session.

The resolution proposed to declare legal and valid the acts which had been necessary during the recess of Congress and Trumbull's strongest argument was that unless bills were passed covering the use of such power in the future and making them legal there really was no object in simply approving the President's unconstitutional acts, as such, for they would have no legal basis except the vote of Congress and were open thus to future censure; or, as an example might, in the future, be interpreted to argue for unlimited power to be exercised by the executive. On August the 2nd this approval of Presidential act and that on Insurrection<sup>1</sup> were passed with a large majority.

Meanwhile, during the long and intermittant debate on the approval of the acts of the President, Lyman Trumbull asked permission to introduce on July 15, a bill to confiscate all property<sup>2</sup> used for insurrectionary purposes. This bill was proposed from the Judiciary Committee and provided, in case of insurrection, that property used in promoting it should be confiscated--and that if any person held to service of labor in any state, under the laws thereof (by which of course is meant slavery in any of these states) if employed in aid of the rebellion, in digging ditches or intrenchments or in any other way, or if used for carrying guns, or if used to destroy the government by the consent of his master, his master shall forfeit all right to him and he shall be forever discharged.<sup>3</sup>

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1.- Congress. Globe. August 2, 1861.

2.- Ibid. July 15, 1861 (S. Bill NO. 25.) p. 120.



On the day following the battle of Bull Run Trumbull delivered his longest speech in favor of confiscation and it came with unusual force at this time.<sup>1</sup> "I am glad the yeas and nays are called to let us see who is willing to vote that the traitorous owner of a negro shall employ him to shoot down the Union men of the country and yet insist upon restoring him to the traitor who owns him. I understand that negroes were used in the fight which has recently occurred.<sup>2</sup> I take it that those negroes who are used to destroy the Union had to shoot down Union men to the consent of traitorous masters ought not to be restored to them." The bill seemed a most effective measure to Trumbull if passed at once for it emancipated the slaves and withdrew from the south an element which was a strong military capital.. As a war measure it could not help being effective. Lincoln had long before this expressed his approval of the principle of the act although he had been forced to recall the order of General Fremont in the Department of the West, which carried out this same idea.

Emancipation as it entered the confiscation bill was as yet little considered. Trumbull had said, "I like what is called emancipation. I think it an excellent idea"<sup>3</sup> The confiscation bill, was approached cautiously because it contained a new principle. Time was needed to prove to everyone what great things could be accomplished through more extensive use of its principles. Nearly all Senators from the free states voted for this act and the border states, Kentucky, Tennessee and Missouri opposed it on account of the remote consequences in the forfeiture of slave property for  
 (Cont.) 3.- Congress. Globe. p. 219. (1861)

- 1.- Congress. Globe. July 21, 1861.  
 2.- Bull Run.  
 3.- Congress. Globe. February 19, 1862.



life, which it might involve, rather than for any direct penalty attached to it.<sup>1</sup> The confiscation bill passed August 5, 1861 with a vote of twenty-four yeas against eleven nays, the vote of Trumbull being cast with the yeas.<sup>2</sup> The bill itself decided what should be done with the slaves which came into Union lines. The slaves of loyal masters were freed with compensation while those of disloyal masters were confiscated, and those of loyal masters in disloyal states generally needed no management. By the next session it will be seen that a bolder and more sweeping measure of confiscation was necessary as a war measure. The bill as passed during this session owes its merit on the ground that it was the embryo<sup>3</sup> of a policy which took time to develop. Confiscation from this time was discussed vehemently in both houses, not continuously but alternately with other measures nearly to the end of that long and excited session of the Civil War.

On July 24, 1861 pending the confiscation act a bill was presented in the Senate by which it was resolved that the present Civil War had been forced on the country by the southern states.<sup>3</sup> It declared that war was not waged for conquest or subjugation or to overthrow or interfere with the rights or established institutions of the Southern States, but was rather to maintain the Union and constitution.<sup>4</sup> This resolution was known as the Crittenden Resolution and its very principle and even in its wording resembled that portion of the President's message to the special session which dealt with the State of the Union.<sup>5</sup>

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- 1.- Rhodes "History of the United States." Vol. IV.
  - 2.- Congress. Globe. August 5, 1861. p. 450.
  - 3.- Congress. Globe. July 24, 1861. p. 243.
  - 4.- Ibid., p. 222.
  - 5.- Messages and Papers of the Presidents. Richardson. Vol. VI.



Lyman Trumbull spoke in favor of the Crittenden Resolution but he was opposed to the more inflammatory phrases which appeared in it as tending to cause greater antagonism in the south and border states. He objected particularly to the use of the word "subjugate" in connection with the carrying on the war and in the final vote on the Resolution, although he favored it could not be brought to vote yea because of his objections.<sup>1</sup> He said "I am opposed to the word subjugate in this connection and for this reason cannot vote for the Resolution."<sup>2</sup> This is one of the cases in which Trumbull's great balancing and reasoning power was swept aside by mere intensity of feeling--somewhat unreasoning perhaps. His lawyers sense of the fitness of mere words here swept aside any idea of principle contained in the Resolution and its statement that "the rebels were around the capital armed and ready to seize it," he urged, was untrue and so it was.<sup>3</sup> This matter further prevented his vote for the resolution but fortunately his vote made no difference for on August 5, it was carried by a vote of thirty to five.

During this same special session numerous other bills were brought forward, principally measures to accomplish the war legislation. Trumbull shows how fair he is, in his desire to economize at this time, when people were so engrossed in the war itself that money appropriations were made in the most off-hand fashion. He took time to inquire into the justice of expending annually large sums of money on coast survey when so much money was needed for carrying on the war.<sup>4</sup> This point in Trumbull's

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1.- Congress. Globe. July 24, 1861. p. 259.

2.- Ibid., p. 265.

3.- Ibid., p. 247.

4.- Ibid., July 16, 1861. p. 266-267.



policy is entirely in harmony<sup>1</sup> with that of the president in his message to the thirty seventh Congress. It is interesting to note Trumbull's increasing interest in every department of the govern-<sup>2</sup>ment. In regard to the Legal Tender Act of February he urged that all the notes should be issued at the same rate, and when large appropriations are made for the use of the army he requested that some outline of the way these moneys were to be spent should be presented and Congress not left to guess whether the funds were expended wisely or not.<sup>3</sup> "Before appropriating hundreds of millions of dollars we should know how many men we are providing for." He recognized more than anyone else the necessity for economy for he felt that there was no means of telling how long the war might last nor how much of a drain might be made upon the treasury and he wished the north to be prepared for any emergency.

Trumbull's war policy as seen in this special session of 1861 may be summarized by the statement that he was the great mediator between the administration and those in the Senate who opposed the administration. He realized the great value of concentrated and speedy legislation and knew that the only way to get this was by making Congress one. He felt the necessity of unified action as much as did the President himself and endeavored by serious and well-considered words, to bring over those opposed by showing wherein each was wrong. Not overbearing nor insistent, but determined that the crisis must rise superior to mere party feeling he pursued a great course of moderation and well thought out action. The next chapter will show how these great principles

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- 1.- "Messages and Papers of the Presidents." Vol. VI. p. 93.
  - 2.- Congress. Globe. Feb. 12, 1861.
  - 3.- Ibid., p. 322-396.



only suggested in the legislation of the special session of the summer of 1861 took root and grew into giant measures for the accomplishment of that great end--the restoration of the Union.



#### IV.

From the special session of July 1861, which lasted until August 6 till the next meeting of Congress the minds of the public were deeply occupied with the fall elections and the conduct of the War. Lindoln's policy in regard to the question of freeing the slaves, which had been raised by Fremont in declaring slaves free in the western division of which he was commander, made the Democratic opposition to him less active than it otherwise would have been and it brought over to more than half-hearted support of him and the Republican Union party those waverers, composed of the more conservative element of the Republican and Democrats, who had felt it necessary in this crisis to give up allegiance to their party.

The actual progress of the war was slow and although General McClellan, in charge of the forces in the East, worked unceasingly and with energy in the organization of his army, little was actually accomplished and people began to grow very restless. McClellan's failure to do something definite and decisive would have been disastrous to the Union's cause had not the affairs in the South been so tangled that there was even greater delay than at the north.

On December the second Congress met and we will see how important was the legislation accomplished in the next three years, toward carrying on the war and putting down the rebellion. An observer in military affairs and a steady worker in its own sphere, though exercising less sway practically and attracting less atten-



tion than it ordinarily would on account of the absorption of the public in military affairs, it will be seen, on examination of the records, how really important the legislation of Congress was.<sup>1</sup>

It is true that the war still caused the executive to upon the power of Congress and directed all eyes to his acts and the work of his armies. However, this did not prevent the Senate working with zeal, sagacity and effect.<sup>2</sup> The laws passed during the next three years only go to show how much an able, earnest body of legislators may accomplish when impressed with the seriousness of their object and when party spirit gives way to the consideration of some great crisis. In these years of the war, the rules of Congress, generally so cumbrous, gave way to the issues which presented themselves in quite an elastic way.

The President's Message of December 1861 contained a note of anxiety in regard to the carrying on of the war. He realized that over one half year had passed and nothing had really been accomplished toward bringing the north and south to a solution of their difficulties.<sup>3</sup> "It develops that the insurrection is largely, if not wholly, a war upon the first principle of popular government--the rights of the people."<sup>4</sup> In my present position I could scarcely be justified were I to omit raising a warning voice against this approach of returning despotism." etc. The President felt compelled to admit that the actual war-fare already started upon could not fail to make the breach between the north and south wider.

1.- Congressional Globe. 37th and 38th Congress.

2.- Rhodes "History of the United States. Vol. 4.

3.- "Messages and Papers of the Presidents" Richardson. Vol. Vi. p. 56.

4.- Ibid., p. 60 ff.



The legislation of the next three years illustrates very vividly how widely the constitutional powers of a president might be interpreted and how efficiently work could be done in the field of this wide interpretation. Lyman Trumbull, the chairman still of the Judiciary committee, had become one of the most active members in the matter of carrying on the War legislation. His zeal, to me exemplified in his constant attention to every part of the work of Congress, is hardly surpassed by that of any other senator. The pages of the Congressional Globe for this period are a comprehensive example of his views upon almost every subject under discussion.

The policy of the Senate is shown during the next three years principally upon the lines of war legislation, currency bills and slavery legislation, the latter composed of policies toward emancipation, confiscation and compensation. It will be my endeavor to show in what way Lyman Trumbull contributed to these three lines of policy and in what ways the ideas started in the first year of the war later developed into a far-reaching control over affairs which allowed the greatest sort of freedom for the sake of meeting the demands of the war and restoration of peace.

Early in the session of 1861 and 1862 the question of arbitrary arrests came up in the Senate--Arbitrary arrests had been made in the northern states where the courts were open and the regular procedure of law had not been interrupted. Citizens had been arrested in Connecticut for getting up peace meetings and there were many similar arrests elsewhere. These arrests were contrary

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- 1.- Cong. Globe. December 4, 1861-1862-1863. p. 9.
  - 2.- Rhodes "History of the United States." Vol. Iv.



to the constitution. The men arrested were charged with no offense, brought before no court and confined in military prisons. To those who opposed the administration these arrests were considered unwarrantable even though the persons arrested were giving aid to the south. Senator Trumbull introduced a resolution asking information from the Secretary of State and pointed out how really fruitless and unjust such procedures were.<sup>1</sup> Trumbull thought that if there was any law authorizing the state department to arrest persons in loyal states and hold them in confinement, it would be well for the Senate to know and if there was not, some legislation might be necessary. "No one will suppose that I have less zeal for the efficient prosecution of the war and the suppression of this wicked rebellion than any one else....I have said that I believe the constitution confers all the power necessary to the government to crush the rebellion and that power comes through arms. It is where the judicial authorities are overborn that the army is called in to suppress an insurrection.

He felt that time was not sufficient proof that the people arrested were traitors. He had voted as we have seen before, for the approval of the Presidential acts in the last session but he felt that this was a different state of affairs and that arrests should not be made at the whim or caprice of a cabinet minister. The regulation of these things by law was Trumbull's chief point and the object of his inquiry. If legislation was necessary whereby persons who sympathized with treason were to be arrested, it must be enacted in a legal way. An innocent man's liberty should

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1.-Cong. Globe. December 11, 1861. p. 67. "Resolved that the Secretary of State be directed to inform the Senate whether Arbitrary arrests have been made and under what laws."



not be cast aside so lightly. "We are fighting for the government as our fathers made it, and do not apprehend that the President of the United States will assume despotic powers. He is the last man to do it." So we see Trumbull's main point was constitutional liberty regulated by law and in his point he did not wish to censure the president but merely inquire from the Secretary of State in regard to a principle, the assertion of which would lead to despotism.

It is true that the acts of a cabinet minister unless repudiated by the president (as those opposing Trumbull argued) become his own. But it is quite improbable that Lincoln would have, of his own volition, ordered arbitrary arrests. He had a profound reverence for the constitution and did not wish to overstep it. We have Lincoln's view positively asserted in February 1862, in the issue of an order that no arbitrary arrests should be made except under military authority where civil procedure had been overborne.<sup>1</sup> This shows Lincoln's point of view and settles definitely what he felt about such action.

As the war progressed the circumstances changed and public sentiment was constantly fluctuating in regard to the President. The conditions in 1862 were so different from those of the year previous, when, on account of the successive military defeats, all was gloom.<sup>2</sup> And the days succeeding the Presidential message of 1862 were not destined to be like those of a year before, when Congress had not fairly started upon its work before the crushing disaster of Fredericksburg increased the dejection of those in

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1.- "Messages and Papers of the Presidents" Vol. VI. Richardson.  
 2.- Rhodes "History of the United States." Vol. IV.



authority. The President's message recommended an encouragement of immigration and expressed satisfaction with the financial operations of the year.<sup>1</sup> The principle thing in the message was the consideration of the Emancipation policy and this showed Lincoln at his best. The policy of emancipation will be shown in the measures which Congress later took.

The general idea reigned in Congress that if Lincoln continued with courage and conviction, the war would be put down-- Of course the infractions of the constitution were still a cause of great concern to many republicans and the defeats in the field caused a feeling of weariness and discouragement at the of the war.<sup>2</sup> The improvement in business enterprises during 1862-1864 opened many avenues to lucrative employment and volunteering had ceased to fill the armies, therefore, some measure of compulsion was necessary during these years.

The conscription act now passed March 3, 1863, operated directly upon the people as a nation rather than through the medium of the states, which had previously been the machinery for raising troops.<sup>3</sup> The country was divided into enroolment districts and all persons were subject to military duty. This was further developed in January 1864 by the act providing that every one should be liable to service. These bills caused not little comment in the House.<sup>4</sup> Lyman Trumbull objected to the bill on the grounds that, as originally worded it subjected persons to service who had not taken the oath of allegiance to the country; but if they had declared

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1.- "Messages and Papers of the Presidents" Vol. VI.

2.- Rhodes "History of the United States." Vol. IV.

3.- Cong. Globe. March 3, 1863. p. 237.

4.- Ibid. Jan. 15, 1864. p. 228-9 ff.



their intention to become citizens it seemed fair that they should become subject to military service. "I think a nation may call upon all persons, within its jurisdiction to rally to its defense and it is not really necessary that they should be citizens of this country--But that is not the point." The question was that where foreigners had voluntarily placed themselves under the protection of the government and had taken part in the administration, could they be subject to military duty. Trumbull held that they could and stated that this idea agreed in its harmony with the recommendations of the President which was to subject to military duty all persons who voted at elections. How often we find Trumbull referring to the ideas of the President as harmonious with his own.

Trumbull urged the speedy passage of this conscription bill on the grounds that one hundred thousand men added to the forces already in the field, with the zeal and enthusiasm with which they would go into service, united with the experience of the old troops which had seen service for the last two or three years would expel the confederate army from Virginia not only in one hundred days but in thirty days after their union with the other forces.<sup>1</sup> He had no doubt that the men could be obtained. He went on to say that the feeling of the people was that the war had lasted too long. We shall see in taking up Trumbull's personal attitude toward the President at this time that he too had an uneasy feeling that the President had allowed the war to continue too long but he did not give open expression to this feeling knowing what a loss of confidence in the executive it would involve.<sup>2</sup>

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1.- Cong. Globe. Jan. 1864. p. 249.

2.- Trumbull's Letters and Papers. Congress. Library.



"The people have been willing to make sacrifices when the government required either men or money; the only difficulty we have had in filling our armies with volunteers was the idea that the war was not to be prosecuted with efficiency. Satisfy the country that the troops to be raised are to be moved at once on the rebel armies and you will get men enough. I believe that so far from this costing the government money as the senator from Maryland suggests, it is the most economical way to put down the rebellion. I believe the men could be raised in the next forty days and that we could have them by the first of March ready to move.....I believe the president has authority to call out troops but I want an expression of the opinion of Congress on this subject--and a direction to raise these troops for a specific purpose."

Trumbull's anxiety to have this bill passed at once, his insistence upon definite and specific action illustrate in him that precise persistence and method that always characterized him. Particularly when he felt that the troops might be used effectively in the spring campaign and to that end urged the debates. He also felt some anxiety about the funds expended in the war and throughout urged economy. He wished to curtail the expenses by paying army officers only for their actual expenses incurred in their campaigns and felt that if the armies would but gain victories the people would submit willingly to any tax for the prosecution of the war but war should be carried on economically, if possible.

In July 1862--, when an immense army appropriation was urged Trumbull had spoken against such an excess of recruiting, holding that the government was already employing more troops than



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it could really manage.

"It seems incredible, to me, that 750,000 should not be enough men to recruit now. Some limit must be placed upon the numbers put in the army. We have never been able to really know how many men we have." <sup>2</sup> He regretted that some of the senators in this discussion should have expressed a lack of confidence in the administration for he felt that Congress had duties to perform and that they should be performed irrespective of the person who was the chief magistrate of the country and it was embarrassing to have such questions brought up and to have it supposed that the legislation had any reference in the least degree to the president--so far as constitutional questions were concerned. "Where a discretionary power was to be vested, we might be more willing to vest it in the president than in another, but so far as constitutional questions are concerned, the Senate, as it appears to me, ought not to be influenced for one moment by the consideration of the person who fills the executive chair.

Meanwhile the country's response to the work of Congress was heard in enthusiastic war and union meetings held in many cities and towns of different states. <sup>3</sup> President Lincoln found it necessary to suspend the writ of Habeas Corpus throughout the United States. The cases in which suspension should apply were stated in general terms. This proclamation was under the authority of Congress of March 3, 1863, and referred to in while the gust and manner of the edict were suggested by Secretary Chase. <sup>4</sup>

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1.- Globe. July 1, 1862 p. 3041.

2.- Ibid. p. 3042.

3.- Rhodes, Vol. IV.

Messages and Papers of Presidents. Vol. VI.

4.- Cong. Globe. p. 236.



this procedure deferred from the exercise of arbitrary powers previously referred to owing to the action Congress had taken in permitting suspension of writ. The bill which had given the president this power had been presented with much debate in the Senate February 19, 1863, and the third section had provided that the President of the United States should have authority to suspend the writ of Habeas Corpus until the meeting of Congress, in cases of invasion and insurrection.<sup>1</sup>

Trumbull took an earnest part in this debate. It will be remembered that he had, from the first, in the special session of Congress in the summer of 1861, approved the suspension of the writ of Habeas Corpus by the President and had then held that it was a constitutional power. Now he still took a strictly legal point of view but in the sense and substance of his theory, held it within the power of the President to use this measure, holding that the Constitution provided that the writ of Habeas Corpus might not be suspended unless, in cases of rebellion and invasion the public safety required it, which clearly gave the power to somebody.<sup>2</sup>

He first held that the writ was intended only to be suspended by act of Congress, but now urged that the President be given the power to suspend it at any time in the United States or any part of the United States, during the rebellion. "I think when the country is environed by dangers all around it, when spies and traitors are traversing the north, giving information, aid and comfort to the rebellion, when others are preparing plots not yet

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1.- Cong. Globe. February 19, 1863. p. 1090.

2.- Ibid. February 19, 1863. p. 1092.



matured, so that you can arrest them for treason, and when, in the opinion of the executive, charged with the duty of suppressing this rebellion, their being at large is dangerous to the public peace, I think it well to provide that he may arrest them, and that they may be discharged by the writ of Habeas Corpus."

He urged that the government could not be carried on a day unless the powers vested in Congress could be exercised and carried out by instrumentalities other than Congress itself. If it was necessary to suspend the writ of Habeas Corpus ever, it was necessary now and he urged the Senate to give that authority to the President with no delay. There was no doubt in his mind that Congress could authorize the President to use this power constitutionally and legally.<sup>1</sup>

The bill as passed provided that a prisoner might be discharged upon taking the oath of allegiance. Trumbull's final advocacy of the bill shows how widely he thought the power of suspending the writ of Habeas Corpus should be used. He wished it to be used without limit when necessary.<sup>2</sup> The final bill ratified<sup>3</sup> the acts of the President and suspended the writ of Habeas Corpus.

These bills show Trumbull's part in the actual war legislation 1861-63--but no field shows so much his particular ability, legally speaking, as that in which the question of the evils of the great war came up--namely in the confiscation and emancipation measures. Before taking up the part of his work which seemed of most importance at the time let us look briefly into his share in the development of the Currency policy.

1.- Globe. February 23, 1863. p. 1186.

2.-Ibid. p. 1206.

3.- Ibid. p. 1435.



In January 1862, the debt of the country being great and the need for money constantly impressing itself upon the mind of Congress, a joint resolution was passed declaring the purpose of raising from taxation and from the tariff on importations \$150,000,000.<sup>1</sup> It seemed inevitable that any financial plan offered must contain a decided increase in taxation or the war could not be carried on without going hopelessly into debt, and financial legislation was ordinarily so slow in Congress that the problem became how to get legislation at once.<sup>2</sup> Spauldings plan as offered in the house was to issue \$100,000,000 non-interest bearing Treasury notes, as legal tender and also make the \$50,000,000 issued in July a legal tender.<sup>3</sup> It was maintained that the treasury notes should be made a legal tender in order to render the government financially independent.

Many opposed the bill in Congress and from without Congress delegates were sent to express opposition to such a measure.<sup>4</sup> The legal tender act passed because it was felt by all to be a necessary measure, but soon a better plan seems to have been presented by which 200,000,000 of the 500,000,000 bonds were issued at 7.36% in addition to the 100,000,000 treasury notes bearing interest at 3.65% payable in two years. These bonds were not to be made a legal tender, for it had always been a clear fact that making treasury notes a legal tender was not advisable. This act because it made debts payable in currency of less value than that in which they were contracted, turned out to be a bad piece of legislation.

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1.- Congress. Globe. January, 1862.

2.- Rhodes "History of the United States." Vol. IV.

3.- Congress. Globe. January, 1862.

4.- Rhodes "History of the United States." Vol. IV. p. 237.



Trumbull opposed the act on the ground that it authorized the issue of treasury notes without interest and contained a provision later putting some of them on interest; this would favor certain portions of the Union and was unfair. "I do not profess to know much about financial matters but will illustrate what I suppose will be the effect of this fourth section by a reference to what occurs in the city where I live, a town of eight of ten thousand<sup>1</sup> inhabitants. We have a bank there, the ordinary deposits of which, per annum, are \$200,000. Now the banking system of Illinois is all broken down and these notes will go into circulation. The business men will deposit in the bank as they have always done and on these deposits they will receive no interest. But the bank will deposit them in the sub-treasury and draw an interest of five per cent. There is the whole of it. They are liable to be drawn out at any time from the sub-treasury where they are deposited. The mass of people will get no interest." On this same theme Trumbull held that the operation of the bill would be decidedly unfair, and cast his vote against it.

Shortly after this Congress created a more comprehensive and searching scheme of internal tax ation than it had ever thought of before.<sup>2</sup> It was necessary to raise large sums and so this bill was arranged to tax almost everything. It might be described, with a near approach to accuracy, as an act which taxed everything produced, everything used, and everyghing seen in the whole United States, so comprehensive was it in its scope. The bill is too long to take up at this point but it served to arouse much comment in every part of the country and outside it.

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1.- Congress. Globe. February 13, 1862. p. 802.

2.- Approved by President July 1, 1862.



Blaine was so impressed with its burdensome character that he quoted Sydney Smith's article of January 1820, on America in the Edingurgh Review, in which he brings everything, even water and air under the scheme of taxation.

Under this act of Congress, distillers of spirits, brewers of ale, beer, porter, all other manufactures; wholesale and retail dealers, men in all kinds of business, whether their trade was to supply necessities or luxuries or to furnish adornment. Many products and nearly all manufactured articles, were taxeth; a duty was laid upon the gross receipts of railroads, steam-boats, on the dividends of banks, on incomes, etc., and a stamp duty laid upon all documents. The bill as constructed, required<sup>1</sup> five hours for reading, such was its length.

When it came up for a vote in the Senate each section was discussed separately. Lyman Trumbull set forth very clearly<sup>2</sup> his reasons for condemning the bill. He thought of all articles cotton should be taxed because it was produced more cheaply in this country than in any other. "Laying a small tax upon it will not prevent its exportation and we can afford to do so. We lay the tax not upon the cotton that is exported simply but upon all cotton. Nor is the cotton, in the shape that it is spoken of in this bill, exactly a raw material. We tax twisted tobacco."

Concerning a tax on labor Trumbull argued that it was not upon persons but on labor. It mattered not that the person who had a right to claimthat labor, claimed it for life or for a series<sup>3</sup> of years according to the provision of the bill as he understood it.

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1.- Congress. Globe. February - June, 1862.

2.- Ibid. May 23, 1862. p. 2319.

3.- Ibid. May, 1862. p. 2426.



The tax was to be put upon the person entitled to the services of another person and in putting a tax on that class of persons it was impossible to say, under the constitution, that one man who had the claim to the service or labor of another, should pay it and another not pay it. You must tax labor for life as well as that for a period of years only.

Trumbull opposed the section of the bill providing a tax on whiskey manufacturers, because the tax would bear particularly heavily sectionally and he thought it unfair that the west should be made to bear the bent of it--since whiskey tax was really<sup>1</sup> a tax on corn.

In regard to the sale of lands for taxes he urged that men would suffer their lands to be sold in preference to paying the taxes and since purchasers at this time would not be forthcoming the result would be an absolute evasion of the tax.

But his general remarks in regard to the whole tax may be said to state chief faults of the bill. He thought it most desirable to simplify the tax bill, that the endeavor was being made to tax too many articles. There was much in it the Senators could not comprehend and that Trumbull knew the people of the country would not understand.<sup>2</sup> "We are taxing a great many small articles from which, at best, we shall derive but very little money--and I think it would be desirable if we could raise the tax upon cotton and the leading articles. We have now in the bill a very heavy tax upon the west in whiskey. It is argued here as if all the whiskey manufactured in the country was sold by the dram and it

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1.- Congress. Globe. June 5, 1862. p. 2578.



is said that it makes no difference whether you tax it ten cents a gallon, or \$1 for nearly all that is made upon it is profit. Much of the whiskey manufactured goes into alcohol and is used for manufacturing purposes. The tax will not be paid by the consumer, it will diminish perhaps the quantity of whiskey which is produced in the country and from that reduce the demand for corn."

The point which Trumbull brought out here is perfectly clear--that the tax would cause a certain amount of depression in the west. By increasing the tax on cotton and putting a tax on wholesale dealers he thought the necessary revenue could be gathered and thus the minor articles omitted. To his mind this would do much toward simplifying the bill and making it satisfactory to the entire country. Notwithstanding the arguments of Trumbull and others the bill passed as it stood and was approved by the president<sup>1</sup> and the Secretary of the Treasury, on June 30. During the next year, in pursuance of the recommendations of the President and the Secretary of the Treasury, Congress passed an act creating national banks, the nucleus of our present system.<sup>2</sup> In the following year, the revival of the public credit being ensured, the Secretary of the Treasury submitted estimates requiring large loans and urged upon Congress the necessity of efficient measures for the increase of revenue.

As a result of this Congress from December, 1863 to July, 1864, established an increase of rates on imposts, a new Tariff act,<sup>3</sup> increasing the tax on spirits 60 cents per gallon. It may be argued that the financial legislation of this period was somewhat drastic but it was hardly more than the occasion demanded, and is

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1.- Congress. Globe. June 30, 1862.

2.- Rhodes "History of the United States." Vol. IV.

3.- Ibid. p. 427. Vol. III.



only a part of all the legislation for this extraordinary period and shows no more than the other forms of policy that the Congress knew and felt the needs of the occasion.

Trumbull's part in the financial legislation was one of moderation. He urged moderate expenditures and economy and wished as far as was possible, to avoid anything spectacular which would frighten the people.

The most important legislation of this period was that in regard to emancipation and other measures dealing with the question of slavery. Emancipation as a war measure had been carefully thought out by the President during the early stages of the war. In dealing with the question of how to get rid of the war's cause a bill had been presented providing for emancipation in all the territories of the United States and in those thereafter acquired. A bill also abolished slavery in the District of Columbia and provided for the compensation of the owners, appropriating money for the colonization of the negro in Hayti and Siberia.<sup>1</sup> ?

On December 18, 1861 Trumbull, the chairman of the Judiciary Committee asked permission to present a bill for confiscation of the property of rebels and the freeing of persons they held in slavery.<sup>2</sup> The bill provided for the absolute and complete forfeiture forever of all property, real and personal, of persons taking up arms against the United States or in any wise aiding or abetting the rebellion. The forfeiture was to be enforced through military power. Lyman Trumbull argued well, for this bill from the beginning, which absorbed the attention of the house and Senate during the whole course of its consideration.

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1.- Congress. Globe. April 16, 1861. p. 1340 Appendix.

2.- Ibid. p. 18.



Trumbull urged the power of Congress to pass a bill of this character as an unquestionable thing; but the power was not on the ground advanced from some quarters, that in time of war the military power was superior to the civil and that necessity is above the constitution. He held that the military was as much subject to the control of the civil power in times of war as in times of peace. "I want no other authority for putting down even this gigantic rebellion than such as may be derived from the constitution, properly interpreted. It is equal even to this great emergency and the more we study its provisions the greater will our admiration for the instrument be and our veneration for the wisdom of its authors."

He said the judicial tribunals had no right to interfere with the army in the exercise of its powers in suppressing the insurrection either by issuing writs of habeas corpus or otherwise, from the fact that the only ground on which the military authority could be invoked at all was, that the judicial authorities were overborn and incompetent to the task. It was often a delicate question to determine the particular point where the judicial authority left off and the military authority began. This had been left to Congress to decide in giving it the power to call out the militia to suppress insurrection and Congress soon after the adoption of the constitution had passed an act authorizing the President to call forth the militia for that purpose.

In framing the bill under consideration Trumbull said that it had been his object to distinguish between the property upon which the military might operate and that subject to judicial control, and he decided that whichever first took hold should



retain its jurisdiction. He thought if any uniform action was had amongst military commanders it must be arranged by Congress. The right to free the slaves of rebels would be equally clear with that to confiscate their property, for it is as property that they possess and hold them.

He urged a constitutional method of suppressing the insurrection at all times. Numerous different bills were presented during this time for approval each dealing in its own way with the subject of confiscation and emancipation.<sup>1</sup>

On February 25, Trumbull further expressed his views on confiscation under the clause of the constitution. He held that it was not competent for Congress to forfeit the real property of a convicted traitor beyond his lifetime. In wartime one right against an enemy he held to be the right of confiscation and destruction, if necessary. "We have just as much right to confiscate the real estate of a man in arms against the government as we have his personality. I know no distinction in law."<sup>2</sup>

The second section of the bill he explained, forfeited the right or the claim of any person to the service or labor of any other person when the person was engaged in any manner in rebellion. The third section provided for the colonization of negroes and, explained Trumbull, "was in harmony with the recommendation of the President of the United States to colonize them," and provided for the colonization in some country beyond the limits of the United States.<sup>3</sup> Trumbull expressed his hope that notwithstanding the reference of the various measures on confiscation, emancipation and compensation to a committee, Congress would pass a bill that would have some life and some vitality and that would accomplish



something. It would be a very easy matter to pass a bill if the friends of confiscation--those who want to accomplish something, would be willing to dilate the bill down till it meant nothing.

"I know Senators say it is inexpedient," he said, "I have been astounded beyond measure, when Senators have risen here after a year of bloodshed and war and have advocated the very course of policy which has brought war and desolation upon us. I believe no bill worth the paper upon which it is written that hesitates to take the property of traitors and rebels before they are convicted in your courts of justice. This bill proposes to dispose of property not for life but as a fine. It does not call it confiscation but says those convicted shall be punished by imprisonment or fine.....<sup>1</sup> We are now assessing heavy taxes to pay the expenses of maintaining our armies and in our State there are hundreds of thousands of dollars worth of property held by traitors in arms against the government and I receive letters almost daily inquiring why it is that some law is not passed to appropriate this property to the payment of this expense concerning the war."

The act as finally passed approved the penalty of death for treason but allowed the court at its discretion to commit the punishment to fine or imprisonment; defined the crime of rebellion and attached a penalty to it, directed the President to cause the seizure of all estate and property, money, stocks, credits of all military and civil officers of the southern confederacy or of any of the states thereof.. It freed forever the slaves of those convicted of treason and rebellion and also the slaves of rebel owners who took refuge within the union lines. It denied protection of

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1.- Congress. Globe, June 28, 1862. p. 3005.



the fugitive slave law to any owners of escaped slaves except those loyal to the union and forbade any military or naval officer to surrender any fugitive to the claimant. Lastly it gave authority for the colonization of persons of the African race made free by this act, and authorized the president to employ negroes as soldiers.

The bill which had been reported by Senator Trumbull from the Judiciary Committee and the one which the House had passed were more stringent than the act finally agreed to and were therefore more satisfactory to the radicals of the Senate, of whom Sumner, Wade and Chandler were the <sup>1</sup> leaders. But even this act was more acceptable to them than the measure which the conservative Republicans of the Senate with the aid of the Democrats and Unionists of the border states, had on a decisive vote succeeded in adopting.

The bill was at last passed and proved, perhaps, to be more useful as a declaration of policy than as something which could actually be enforced. It had been noised about that the President would veto the bill and many legislators were anxious lest there should be a collision of the people and the President.

Lincoln's chief objection rose from his interpretation of the act to mean that offenders might be forever divested of their titles to real estate. Confiscation to this extent was, in his view, clearly opposed to the explicit assertion of the constitution.

Trumbull said, "I believe that the passage of this bill and its fair execution will do more toward crushing the rebellion than would be the capture of Richmond and the destruction of the whole rebel army that is around it today." It is noticeable that

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1.- Rhodes "History of the United States." Vol. IV.



President's only objection rose from this one point. Trumbull urged that if the President did veto the bill the Congress could override his veto in the usual way but Congress finally passed an explanatory bill which obviated the difficulty and on July 16, 1862, the long debated, long thought of, carefully constructed confiscation act weighty in the important principles was passed, and received the President's approval.<sup>1</sup>

Inasmuch as Congress had been called upon to make this explanatory resolution, a feeling predominated that Congress was being coerced by the President.<sup>2</sup> They misjudged him but not unnaturally for although he was thinking about slavery as earnestly as they, the indiscretion of a general had obliged him to take a position which seemed to them a reactionary policy.<sup>3</sup>

Hunter who commanded the department of the south had on May 6, issued an order freeing all slaves in South Carolina, Georgia and Florida.<sup>4</sup> Lincoln said no general should do such a thing on his responsibility without first consulting him and May 19 declared this order void and appealed to the people to pass some measure providing for gradual abolition with emancipation in the border states. He felt that emancipation as a sudden and complete measure too strenuous. The people in general approved Hunter's order. How to treat slavery and the slaves to redound to the advantage of the union cause was the question in Lincoln's mind. But the President believed the freeing of the slave in the Confederate States a military necessity.

Congress now adjourned and five days later Lincoln read to his cabinet a proclamation of emancipation which he intended to

1.- Congress. Globe. July 16, p. 3380.  
 2.- Ibid.  
 3.- Rhodes, "History of the United States." Vol. IV.  
 4.- Ibid.



issue and expressed the idea that he intended to recommend to Congress an adoption of a practical measure of compensation.<sup>1</sup> But Seward prevailed on him not to issue the emancipation proclamation until there was some great military victory as a basis for it, so Lincoln put it off. The occasion came on September 19, in the Battle of Antietam.

The was pressure for and against the emancipation proclamation. Lincoln's warrant was the war power of the constitution and he felt confident that the plain people of the north would understand this and as the days passed it did seem that the public sentiment was tending in the direction of Emancipation as an inevitable thing.

The proclamation provided that Emancipation should take place the first of January, 1863; that in loyal states there should be compensation for emancipation and colonization of freed negroes.<sup>2</sup>

Thus the next step was taken toward the complete solution of the problem of slavery. The problem of emancipation had so far been done in a purely constitutional and legal way. The Proclamation was followed in January by a bill for Emancipation in Missouri Brought forward by a select committee on Emancipation in the House, it provided for 10,000,000 in bonds to compensate slave owners in Missouri.<sup>3</sup> In the Senate the bill occasioned long and intelligent debates that consumed a portion of many days for nearly a month. Compensation finally failed on account of the strenuous opposition of the Democrats--and a general luke warmness of Republicans in regarding compensation as a wrong.

Trumbull had voted for this bill as he voted for all the

1.- Rhodes "History of the United States. Vol. IV.

2.- Ibid. p. 71.

3.- Messages and Papers of Presidents. Richardson, Vol. VI. 9/23/63



other measures of emancipation and held that compensation was quite a necessity to that end but was not willing to go the length of the extensive use of the principle of confiscation unless absolutely<sup>1</sup> necessary. Beyond a few remarks Trumbull took little active part in the debates concerning these bills.

Thus ended the legislation of 1863. From this point, with emancipation becoming constantly more general, the suppression of the war became an easier matter, but the fact that it was easier may be seen in following the lines of action which Congress followed during the next year. Without the intelligence shown by Congress, President Lincoln would not have found his course so simple nor his support so strong.

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1.- Congress. Globe. February 12, 1863. Yeas 23, Nays 18.



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Outside of Congress affairs had progressed only slowly during the first months of war. There had been so much consternation when the firing on Fort Sumter occurred and the war actually begun that the minds of the people required some time to react and become actually accustomed to affairs as they came along. For several months before the war men had thought that war was a possible solution of the difficulty but were actually unprepared for the shock when it came, believing that something would be done by the government to deflect the oncoming deluge from its course.

When the minds of people did react, there was a universal flocking to the standards of President Lincoln and a desire to see him through this difficulty. With the tide came the support of most of the Republican members of the Senate, after the policy of the President became known and the firing on Sumter further tended to bring recruits to his ranks and his no-compromise policy.

However, as the months of the summer of 1861 progressed and there seemed to be no action, in a military way, the supporters of the administration were justly alarmed. General McClellan was still recruiting, still preparing for the war in October 1861 with no prospect of making an immediate advance upon the Confederate army. The dissatisfaction which held the minds of many of those in political life, finally found expression in a visit which Lyman Trumbull, Chandler and Wade made to the President October 26, 1861 in which they endeavored to urge upon him the importance of



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immediate action.

General McClellan, with his army, had remained stationary when it seemed a propitious moment for action. These Senators felt that winter was coming and some definite action must be taken. President Lincoln was somewhat overcome at the turn of events and although he himself had often wished that McClellan would act, still felt confidence in the General, knowing him to be a brilliant man with no mean qualities as an organizer. He felt to insist now upon some action from McClellan might mean to disturb all his plans and he had determined to let McClellan prepare himself well for the master stroke which he intended to make.

Two days after this conference with the President, Trumbull and his colleagues again met the executive and Mr. Seward at the latter's house.<sup>2</sup> Mr. Trumbull spoke earnestly of the necessity for energetic measures, to drive the enemy from in front of Washington. There was constant fear amongst the inhabitants of Washington, that the capitol might be taken. The President and Mr. Seward both defended McClellan in his purposes not to move until he was perfectly equipped and ready and tried in every way to pacify the impatient Senators.

Not content with the results of this interview they decided to go to General McClellan himself. During the interview with McClellan, Trumbull expressed his firm conviction that an unsuccessful battle was preferable to delay; a defeat might be repaired by the thousands of recruits who held themselves ready at a moment's notice, to go into the field. McClellan's reply was

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1.- Rhodes "History of the United States." Vol. III. p. 467 .  
2.- Ibid.



characteristic. He said he would rather have a few recruits before<sup>1</sup> a victory than many after a defeat. Certainly this seemed a good argument and there was not certainly at this time, any well formed opposition to McClellan and his policy but the leaders of the administration were soon to have demonstrated to them how fatal<sup>2</sup> this method of delay was.

McClellan wrote a letter concerning Trumbull's visit in which he said "I've been talking with Trumbull, Wade and Chandler about the matters. They will make a desperate effort to have General Scott entered at once. Until that is accomplished I can effect but little good. He is ever in my way and, I am sure, does not desire effective action."<sup>3</sup> It might seem from this, that despite the lack of confidence, Trumbull and his colleagues had been persuaded in this visit that McClellan was doing his best and<sup>4</sup> joined with him in his plan to get General Scott removed.

At least for a time the opposition to McClellan ceased. The President, although, he defended McClellan did feel that action was necessary but felt that McClellan's own plans must be tried until found wanting. Trumbull's idea in this move seems to have been a desire to conciliate the faction in Congress which was opposed irrevocably to the way the war was being carried on. Mr. Greeley had voiced the public opinion very adequately when he said "The administration is far behind the popular demand for it. Everywhere there is impatience at the slow action and clamour for rapid<sup>5</sup> movement. Our troops might have been in Richmond " and again "My

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1.- Rhodes "History of the United States." Vol. III.

2.- Ibid. p.356.

3.- McClellan's Own Account.

4.- Rhodes "History of the United States." Vol. III.

5.- Tribune, July 28, 1861.



ideas as to the general conduct of the war for the Union are those repeatedly expressed by myself and others through the Tribune and of course are not those on which the conduct of the war have been based. I hold that the war must be prosecuted with the utmost energy, promptness and vigor."<sup>1</sup>

Taking the above as a truthful reflection of the state of mind of the majority of the people the action of Trumbull's cannot well be interpreted as disloyalty to the administration but must be regarded in the light of a reflection of his systematic endeavor to make the whole country one with the administration.

Nor did Trumbull confine himself to dipping into the mere military conduct of the war. For some time there was, during the months of October and November, dissatisfaction with Lincoln's Cabinet. The feeling was somewhat prevalent that the Cabinet was not doing its best to support the administration. This feeling predominated amongst the more radical Republicans and amongst some of those who were not so radical<sup>2</sup> and on December 19, 1862, a committee of nine of which Trumbull had been made a member united upon the president and presented to him resolutions attacking and condemning Seward, the Secretary of State for a supposed lukewarmness in the conduct of affairs and an indifference to the administration of no small dimension, especially for a lack of interest in the anti-slavery measures which the administration had considered necessary as war measures.<sup>3</sup>

Lincoln was surprised at this and when he reported to his cabinet later, he said "while they seemed to believe in my honesty,

1.- New York Tribune, July 26, 1861.

2.- Rhodes "History of the United States." Vol. III. p. 266.

3.- "Life of Seward" Edited by Baker. Vol. V.



they also appeared to think that when I had in me, any good intentions or purposes, Seward contrived to suck it out of me unperceived.<sup>1</sup> Lincoln had ended the conference with the committee of nine without committing himself on the subject of Seward and the rest of the Cabinet, and asked the committee to return again that evening.<sup>2</sup>

In the meantime he called his Cabinet together with the exception of Seward, and put the matter before them, saying that he was not looking for and actually did not want a resignation of any kind. While the Cabinet still discussed the affair the committee arrived again and both the committee and the members of the Cabinet were surprised to see the other body there. Lincoln had decided to take matters in his own hands and have a perfectly frank discussion. He was determined to have no misunderstanding and to that end urged the frankest sort of speech saying that on this ground only could understanding be reached.<sup>3</sup>

Grimes, Sumner and Trumbull all attacked the Cabinet in general and on Seward, in particular, expressing their opinions that the Cabinet was not supporting with zeal the affairs of the administration. In turn the Cabinet defended themselves and their absent member.<sup>4</sup> The situation was particularly embarrassing to Mr. Chase, who had before this, outside the Cabinet, vehemently denounced Seward. He now found it difficult to defend him, under the circumstances, as the other members of the Cabinet were doing. Trumbull voted to dismiss Seward till the very end of this meeting<sup>5</sup> and did not give in, holding out in the most tenacious manner.

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1.- Nicolay and Hay. Vol. VII. p. 350.

2.- Rhodes "His tory of the United States. Vol. III.

3.- Nicolay and Hay, Vol. VII. p. 351 ff.

4.- Thodes "History of the United States." Vol. III.

5.- Ibid.



This is one of the instances in which Trumbull's mere intensity of feeling overcame any reason his mind might arrive at for giving in.

As the meeting broke up Mr. Trumbull walked back to where the President stood and privately but vehemently told him that Chase had held a very different opinion about Seward the last time he had spoken with him in regard to Seward.<sup>1</sup> The President, naturally deeply distressed and feeling that it was most inexpedient to dismiss Chase and Seward from the Cabinet at the time, did not know at first what to do but after Seward and Chase both resigned his course seems to have been clear and he demanded their return to the Cabinet and seems to have felt that now he was master of the situation for he said, "Now I can ride; I have got a pumpkin in each end of my bag." In speaking of the matter later, he said, "I do not see how it could have been done better. I am sure it was right. If I had yielded to that storm and dismissed Seward the thing would have all slumped over to one side and we should have been left with a scanty handful of supporters. When Chase gave me his resignation I saw the game was in my own hands and I put it through."<sup>2</sup>

One can't help admiring both the way Lincoln withstood this method of opposition and the courageous way in which the Senators dealt with this subject, for certainly they accomplished their object, if not actually in the removal of these men, at least in the winning them over to a heartier, warmer support of the administration and its plans. The episode shows how much influence these men really had in their determination to do the best they could for the Union and also shows Lincoln's wisdom in keeping in

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1.- Life of Seward. Vol. V. Edited by Baker.

2.- Nicolay and Hay. Vol. VII. p. 357.



the Cabinet at that time men who were powerful and carried with them the support of many who did not actually support the President. From this time on things were quite different. With Seward's continuance in office he tacitly pledged himself to a franker support of President Lincoln. It may be said in defence of Seward that perhaps it was not surprising he lacked enthusiasm in the measures of the administration which were purely military, so absorbed was he in the conduct of foreign affairs, and in averting from the United States any trouble from England or France which had at first seemed probable and later when the affair of the Trent came up almost certain.<sup>1</sup> The influence of foreign affairs upon the suppression of the rebellion cannot be emphasized too much for it was through Seward's careful handling of them, that the ministers abroad were brought to look upon affairs otherwise than despairingly.

Quite early in the war came the question of European recognition of the Confederate States followed by the subject of European intervention and incidentally the Trent affair which shows the condition of popular sentiment in the United States and Europe.<sup>2</sup> The idea seemed to prevail that Great Britain would intervene. "Adams did his best in showing our position in a favorable light,<sup>3</sup> wrote Seward in Great Britain. In the United States after Captain Wilkes' capture of Mason and Slidell there was the most hearty expression of approbation for the act and many in the highest official circles were led to look upon the affair with favor and Captain Wilkes was regarded as a hero.<sup>4</sup> Seward summed up the

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1.- Life and Works of Seward. Edited by Baker. Vol. V.

2.- Ibid. Vol. II. p. 525.

3.- Ibid.

4.- Seward "Note on the War. December 26, 1861.



situation in writing to Lord Lyons and said that the British government had lightly conjectured that Captain Wilkes had acted without<sup>1</sup> any authority from his government.

It was understood generally that Great Britain would have to be reckoned with and war was looked upon with fear. The House of Representatives made a vote of thanks to Wilkes and felt that the act was entirely justified.<sup>2</sup> In the Senate Sumner and Lyman Trumbull, opposed approbation for legally there had been a violation of international law and they believed that Mason and Slidell should be surrendered at once.<sup>3</sup> Lincoln feared that Mason and Slidell might prove to be "white elephants" but did not wish to give them up at first, not understanding that the principles of international law would demand it.<sup>4</sup> The affair was finally settled as Sumner, Trumbull and Seward had felt that it should be,<sup>5</sup> "by a surrender of the prisoners and an apology."

In December 1862, as has been shown, Chase had offered his resignation to President Lincoln, a proceeding which Lyman Trumbull heartily approved; but since the resignation had not been accepted Chase had resumed his duties and had remained at peace with the president.<sup>6</sup> But from time to time he and the President disagreed upon appointments and Chase assumed again an attitude of hostility. Richard H. Dana depicts the state of feeling adequately. He said, "The Cabinet is at sixes and sevens, or 'Isaac and John,' as my witness said. They say dreadful things of one another--not Seward--for I have never heard him speak harshly of one of them."<sup>7</sup> From all the evidence I can find it was im-

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- 1.-Seward, "Note on the War." January 14, 1862.  
 2.- Congress. Globe. Dec. 29, 1861.      7.- "C. F. Adams," R. H.  
 3.-, Ibid. December 30, 1861.      Dana. Vol. II. p. 273, 274  
 4.- Nicclay and Hay. Vol. V. p. 26.      ff.  
 5.- Congress. Globe. Jan. 4, 1862.  
 6.- Rhodes "History of the United States." Vol. IV. p. 478.



possible for Chase to continue longer in the Cabinet but the final rupture came only after Mr. Lincoln was enthusiastically renominated for the presidency.

In the meantime one must take into account the political campaign and the election of a president. The important question in 1864 was whether Lincoln should succeed himself or not and this question had even come up in 1863 and could not be kept in abeyance. Lincoln was held responsible for the military failure of the summer of 1862, for the disaster at Fredericksburg, and for that of Chancellorsville in May, 1863, with the result that many came to doubt whether he had the requisite ability and decision for carrying on the great undertaking. The disaffection had been strong enough to seek a head and had found it in Chase, who had an idea that he could receive the peoples vote for the presidency. On looking at the situation at first he might seem a formidable candidate. He represented the more radical wing of the Republican party and to many was the counterpise of Lincoln, who had in their estimation gone too slow. Dr. William Jayne of Springfield, Son-in-law to Trumbull says that Lyman Trumbull supported Lincoln warmly and constantly, both politically and personally during the campaign of 1864, and the public evidence might argue that this is true for Trumbull had repeatedly eulogized the president in the Senate and with almost constant effort had seconded all his schemes. However, this may be true externally, there is certain evidence toward the end of 1863, and during the year 1864 that Trumbull had his doubts as to whether Lincoln was doing his best to suppress the war and he did not seem to feel confidence in him, in so great a degree as



he felt before. Whether his personal attitude was any less friendly it is hard to say. From the proof which I shall offer I am inclined to believe that he was influenced more by the condition of the country and the crisis which had been reached, to seek another candidate for the presidency other than Mr. Lincoln.<sup>1</sup>

On January 2, 1864, Mr. Norman B. Judd wrote to Trumbull from Berlin, having just returned thither from a visit in the United States, "When I last saw you your conviction was that Lincoln would be reelected. I tell you, combinations can't prevent it. Events possibly may. But until some event occurs is it wise or prudent to give an impression of hostility for no earthly good? Usually your judgment controls your feelings. Don't let the case be reversed now. Although a severe thinker you are not constitutionally a croaker. Excuse the freedom of my writing. I have given you proof that I am no holiday friend of yours."

The inference to be drawn from this letter is that Trumbull had thought of, if not actually hunted, another candidate for the presidency other than Mr. Lincoln. Mr. Judd seems to think that Mr. Trumbull was influenced by his feeling in this respect. I believe that it was his feeling but that feeling was one of anxiety concerning the country's condition rather than any sort of hostility that might be expected from the tone of this letter.

Another letter written to Lyman Trumbull at this time shows in what channels his thoughts were directed. Richard Yates, Governor of Illinois, wrote from Springfield urging an unwavering support of Mr. Lincoln from the Senator of his own State. "As you are a Senator from Illinois, the State of Mr. Lincoln's, please



be cautious as to your course till I see you. I have such strong regard for you personally that I do not wish either enemies or friends on our side, who would like to supplant you, to get any undue advantage over you."<sup>1</sup>

As I have said above any hostility which Lyman Trumbull evinced, or perhaps merely lack of confidence which he felt, must have been expressed only intimately to his personal friends. If one really considers what Dr. William Joyne says one must admit that it was merely a lack of confidence, and the element we have often noticed in Trumbull, of being influenced more by conditions and convictions than by party principles. Events showed that the personal popularity of Lincoln was too great for the opposition to him and in spite of many different manifestations of public opinion averse to his reelection, he was elected amidst an enthusiasm aroused by the more or less successful campaigns of Grant in Virginia, and his own wise acts.<sup>2</sup>

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- 1.- February 26, 1864. Congressional Library, "Letters of Trumbull."
  - 2.- Rhodes "History of the United States." Vol. IV.  
See New York Tribune February 23, 1864. "Grant, Fremont or Butler would make as good a candidate as Lincoln."



## VI.

The year 1863 had ended with no greatly definite things accomplished in warfare. While the navy had performed some brilliant exploits, a large part of the work accomplished was of the useful hum drum sort. The blockade had constantly increased in efficiency as the navy expanded although it had not been able to suppress entirely the illicit trade.<sup>1</sup> However, the navy had done well for in three years it had captured one thousand vessels. Public opinion at home and abroad at the beginning of 1863 had not supported the government but despite this the administration had accomplished some good things.<sup>2</sup> The preliminary emancipation and the policy of using black men gave to the future an entirely new aspect. According to our political system the general government had no lawful power to effect emancipation in any state and there had been a need for this.<sup>3</sup> No servile insurrection, no tendency to violence or cruelty had marked the measure of emancipation and the arming of the blacks. Lincoln had his hand on the popular pulse and he knew how to blend his leadership with a certain respect<sup>4</sup> for the popular will.

As time passed there seemed to be more confidence in the government however and the armies for 1864 were adequately filled by the act of Congress providing that the president should call<sup>5</sup> whenever he liked, as many troops as were necessary.

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- 1.- Messages and Papers of the Presidents. December 1863. Vol. VI.
  - 2.- Ibid.
  - 3.- Ibid.
  - 4.- Rhodes "History of the United States." Vol. IV. p. 470.
  - 5.- Congress. Globe. February 1, 1864.



It was evident in 1864 and 1865 that the campaigns were, as in previous years, events upon which all else depended to a great degree, but now the president and his generals, having learned lessons from bitter experiences, had begun to conduct the war with professional skill. Grant, now in command of the armies, planned to destroy and capture Lee's army and to take Richmond and Atlanta. In the judgment of many critics, Grant had not been equal to the occasion but it was generally admitted that his strategy was superior to that of McClellan in that he grasped the aim of the war and stuck to his purpose in spite of defeats and losses.<sup>1</sup>

In 1864 slavery was virtually dead, but was not legally abolished. To the Congressional acts dealing with it, to the President's proclamation of Emancipation there were exceptions and deferring opinions as to their scope.<sup>2</sup> To make freedom sure, to place it upon an impregnable base, the necessity for a constitutional amendment, to abolish slavery forever, seemed evident. Senator Trumbull, the Chairman of the Judiciary Committee, now one of the most prominent lawyers in the Senate and because he was the republican senator from Illinois, very influential, in reporting such a constitutional amendment, February 8, 1864, spoke clearly and to the point.<sup>3</sup>

The measure was to be proposed to the legislatures of the various states as an amendment to the constitution and provided in one of its articles that everywhere within the limits of the United States and of each state or territory thereof, all persons were to be equal before the law so that no person could hold

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- 1.- Rhodes "History of the United States." Vol. IV. p. 439.
  - 2.- Ibid. p. 440.
  - 3.- Ibid. December 8, 1863.



another a slave. By it neither slavery nor involuntary servitude, except as a punishment for a crime, should exist, in the United States, or in any place subject to their jurisdiction and also Congress was given the power to enforce the above named proviso by the proper legislation.<sup>1</sup> Lyman Trumbull urged upon the Senate the necessity of pressing the matter to a vote as early as possible because he felt the matter to be the utmost importance. There were numerous substitute bills offered and debated but each in its practical principles contained the same provisos as the bill finally passed.<sup>2</sup> There were doubts in the minds of many whether Congress had the power to prohibit forever, even in this way, the introduction of slavery into the United States.

On Tuesday March 29, Trumbull made his most able speech in favor of a 13th amendment.<sup>3</sup> He thought without stopping to inquire into all the causes of trouble, and of distress, desolation and death which had grown out of "this atrocious rebellion," it would be generally admitted that they sprung from slavery. If there had been no slavery in the south, there could have been no abolitionists in the north to interfere with it. If, upon the other hand, it was said that the rebellion grew out of an attempt on the part of those in the interest of slavery to govern this country so as to perpetuate and increase the slave-holding power; and failing in this, they had attempted to overthrow the government and set up an empire of their own, founded upon slavery as its chief corner stone, if there had been no slavery there never could

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1.- Congress. Globe. March 16, 1864. p. 1130.

2.- Ibid. January to April 1864.

3.- Ibid. March 29. p. 1313.



have been a foundation upon which to build.....The fathers who made the constitution regarded slavery as an evil and looked forward to its early extinction. They felt the inconsistency of their position, while, proclaiming the equal rights of all to life, liberty and happiness, they denied liberty, happiness and life itself to a whole race. It was to him impossible that a government based upon such antagonistic principles could peacefully endure, nor did its founders expect it would. They looked forward to the not distant, nor, as they supposed, uncertain period when slavery should be abolished, and the government become in fact, what they made it in name, one securing the blessings of liberty to all.

In the earlier stages of the war, Trumbull said there had been an indisposition on the part of the executive authorities to interfere with slavery at all. For a long time slaves who escaped from their rebel owners and came within our lines were driven back. Congress had finally passed a law in July, 1861, declaring free, all slaves who were permitted by their masters to take any part in the rebellion. Under the provisions of that act, had it been efficiently executed, a great many slaves must necessarily have obtained their freedom. To him, the constitutionality of the act was clear. The act, however, had not been executed and no single slave had been set at liberty under it.

Subsequently in December 1861 an act of a more sweeping and comprehensive character had been passed. a law providing for the freedom of all slaves who should come within the lines of the northern armies, who should be deserted by their masters, or who should be found in regions of country which had been occupied by



rebel troops and afterwards came within the possession of the north and who belonged to rebel masters. Under the provisions of this law most of the slaves made free at all, had been emancipated. Trumbull pointed to the fact that even if all these laws had been efficiently executed they would not wholly have extirpated slavery for they aimed only at freeing the slaves of Rebels. The President's Emancipation proclamation undertook to free the slaves in certain localities. Unlike the acts of Congress which undertook to free the slaves of rebels only, and of such as came under the control of the north, the President's proclamation had excepted from its provisions, the regions of country subject to authority of the north, and had declared free the slaves only who were in regions of country from which the authority of the United States was expelled. He said "The force and effect of this proclamation are understood very differently by its advocates and opponents. The former insist that it is and was within the constitutional power of the President, as commander-in-chief to issue such a proclamation, that it is the noblest act of his life or the age; and that by virtue of its provisions all the slaves within localities designated become ipso facto free. While others declare that it was issued without competent authority, and has and cannot effect the emancipation of a single slave.

These later insist that the most the President could do, would be, in the absence of legislation, to seize and free the slaves which came within the control of the army; etc., and none of these could have any force except within the lines and where the army actually had the power to execute the order--; that to that extent the previous acts of Congress would free the slaves of rebels



and if the President's proclamation had any effect it would only be to free the slaves of loyal men, for which the laws of the land did not provide. "He thought then since all these acts to free slaves seemed inefficient, if we were to get rid of the institution of slavery at all some other way besides those already used must be employed--and that measure, whatever it was, must be appropriate and convenient.

Then Trumbull showed that the only effectual way in his judgment of riding the country of slavery so that it could not be resuscitated, was by an amendment to the constitution forever prohibiting it within the jurisdiction of the United States and his amendment adopted, not only would slavery cease, but it could never be reestablished by state authority, or in any way other than by again amending the Constitution. Whereas, if slavery was abolished by act of Congress or a Proclamation of the President, assuming that either had the power to do it, there was nothing<sup>1</sup> in the Constitution to prevent any state from reestablishing it.

This change of the constitution would relieve the North of all difficulty, in the restoration to the Union of all Rebel States, when they should be reduced to obedience to the laws. He explained that, to secure its passage, required, in the first instance, a vote of two-thirds in its favor in each branch of Congress and its ratification subsequently by three-fourths of the States of the Union. "I trust, I do not assume too much when I assume that it will receive the requisite vote of two-thirds in each branch of Congress. " He was assumed that all the free states would adopt the amendment, because the few in the North or in free states who attempted to adopt it would do so on constitutional

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1.- Congress. Globe. March 28, 1864. p. 1314.



grounds, denying the authority of the government to interfere with it; but none of those persons denied the power of the people to amend the constitution in the mode prescribed by the instrument itself. It was, to his mind, reasonable to suppose that if the proposed amendment passed Congress it would, within a year, receive the ratification of the requisite number of states making it a part of the constitution. If that could be accomplished the country would be forever freed of a troublesome question. He knew the passage of the measure would not put an end to the rebellion and he laid no claim that it would for there was but one way to do that and that was by the power of brave soldiers.

The Union could never be restored and the authority of the Constitution recognized, and its laws obeyed and respected until the northern armies had overcome the rebel armies--"We must look to our soldiers, our patriotic army, to put down the rebellion!" "Instead of looking back and mourning the things which are past, let us remember them only, or the lessons they teach for the future. Forgetting the things which are past, let us press forward to the accomplishment of what is before. We have at last placed at the head of our armies a man in whom the country has confidence, a man who has won victories wherever he has been and I trust that his mind is to be permitted uninterfered with, to unite our forces, never before so formidable as today--in one or two grand armies and hurl them upon the rebel force. Let him put to flight the main rebel army which has threatened the capitol for the last three years, and the small rebel armies will quickly succumb. I look for that result during the coming campaign, and with that result, if we civilians do our duty, we shall have the authority of the



Constitution vindicated, constitutional liberty reestablished, the Union restored, and freedom everywhere proclaimed."

Lyman Trumbull has , in the above, shown the exact situation as it appeared in the Spring of 1864. He has brought out each point in that clear-cut, precise manner which prevents confusion and leaves no doubt in the readers mind as to the conditions existing and the way they could be remedied. Lyman Trumbull really drafted the 13th amendment as it appears in the Constitution now and it was mainly through his efforts that the amendment drafted finally passed. This did not end the debate over the thirteenth amendment by any means for the debates lasted many days. It was considered by most of the Senate as well as by Trumbull the most important act the American people had ever had under consideration. It dealt with a question which was the underlying principle of the rebellion and for that reason its passage seemed a most essential thing. Lincoln argued for the passage of such an amendment in his annual message saying that it was sure at some time to go to the people for a vote and the sooner the better.<sup>2</sup> Finally, after a long and ardent debate, not so much over principles involved in the amendment as over the words of it, both the Senate and the House voted, the vote in the Senate being thirty-eight to six but the House, failing to have the requisite 2/3 majority, the bill had to be carried over until the next session.

Besides the great question of legally abolishing slavery within the United States, the important consideration of Reconstruction came to the front during this period of the war.<sup>3</sup>

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- 1.- Congress. Globe. April 7, 1864. p. 1488.
  - 2.- "Messages and Papers of the Presidents." Richardson, Vol. VI. p. 179.
  - 3.- Rhodes "History of the United States. Vol. IV. p. 484.



Toward the reconstruction of the Union Lincoln had early taken tentative steps by appointing, in the Spring and early Summer of 1862 military governors in Tennessee, North Carolina, Arkansas and Louisiana. Sumner and others had, in the Senate, formulated the doctrine of state suicide, as a definition of the status of the seceded states. This meant that the states had ceased to exist, as states, and that Congress had power over them which it had over the territories. Lincoln found it unnecessary to consider this point. Outlining his plan in his proclamation of Amnesty and Reconstruction.<sup>1</sup> And his message of December 1863, he said he considered the discussion as to whether a state had been at any time out of the Union vain and profitless.<sup>2</sup> It didn't matter whether they should be considered to be in or out. His plan was that if one-tenth of the qualified voters, according to the election laws, before secession, of any one or all of the Confederate States (the standard being number of presidential votes cast at the presidential election of 1860) should take an oath of fealty to the constitution, and abidance by the acts of Congress and by the Proclamations of the President having reference to slaves, and should reestablish a state government, such should be recognized as the true government of the state.<sup>3</sup> Of course the more radical Republicans in the Senate objected to such a scheme and formed one which was reported on February 14, 1864--and by which a majority of the white male citizens was required to constitute a new state government and not such a liberal arrangement as one-tenth the qualified voters.<sup>4</sup> It further exacted that the constitution of

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1.- Nicolay and Hay, Vol. IX., p. 111 ff.

2.- Richardson "Messages and Papers of the Presidents." Vol. VI. p. 179 ff and p. 213.

3.- Lincoln "Complete Works. Vol. II. p. 443.

4.- Congress. Globe. February, 1864. p. 872.



such a state should prohibit slavery forever. Neither plan made any provision for negro suffrage and that is what Sumner particularly objected to. He represented the wing which insisted upon negro suffrage. Besides these differences in the two places, there was a germ of variance regarding the treatment of Freedmen, which, though playing no part in the present question was still there to cause future trouble. President Lincoln wrote to Michael Holm who had been elected Governor of Louisiana and said "Now you are about to have a convention, which will, among other things decide the electors franchise. I barely suggest for your private consideration, whether some of the colored people may not be let in--as, for instance, the very intelligent, and especially those who have fought gallantly in our ranks.<sup>1</sup> They would probably help, in some trying time to come, to keep the jewel of liberty within the family of freedom."<sup>2</sup>

Sumner expressed the feeling of almost all the more radical republicans that the negroes should be admitted to suffrage. Sumner said that in seeking restoration to their proper places in the Union the states should again enjoy constitutional functions but that care should be taken that the Rebellion was not allowed through any negligence, to retain the least germ of future life. Lincoln, in writing to Trumbull, January 9, 1865, had asked him if Louisiana could be brought into proper practical relations with the Union sooner by admitting, or rejecting, the senators they had proposed. "He was anxious to have admission at once and wanted<sup>3</sup> nothing to stand in the way of his plan for reconstruction.

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- 1.- Lincoln, "Complete Works. Vol. II., p. 443. Century Edition.
  - 2.- Sumner's Works. Vol. VII., p. 334.
  - 3.- Lincoln's Writings, "Nicolay and Hay, Vol. IX. p. 454. ff.



To return to the two plans of reconstruction--the plan offered by Davis in the House requiring a majority of the white male citizens to vote for a constitution, before a state could be readmitted, was finally accepted by a vote of 73-59. The next day it received the assent of the Senate.<sup>1</sup> The radicals bitterly attacked the plan of the President but Trumbull supported it warmly thinking it much better to start with a liberal policy in regard to readmission for if the government made it too hard reconstruction might be a difficult task.<sup>2</sup> He was practically agreed with the President in his plan and voted against the Davis plan.

The objection to the President's bill had been that it was not coherent, nor orderly, nor did it really contain a guarantee for the abolition of slavery. Upon the urgent request of Wade and Chandler that the bill as passed be signed at once Lincoln replied that he did not feel quite sure in his mind that Congress could prohibit slavery in the reconstructed states.<sup>3</sup> Of Course the 13th amendment had not as yet reached its realization.<sup>4</sup> The president was sure he could do things in a military way, when the emergency demanded it, but could not find the grounds upon which Congress could constitutionally do it.<sup>5</sup>

Many were opposed to the course the president took in pocketing the bill and he was charged by the radicals as having turned pro-slavery.<sup>6</sup> On July 8 by a proclamation he gave his reasons to the public for not signing the bill and went on to say

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- 1.- Congress. Globe. July 1, 1864. p. 3449.
  - 2.- Ibid. June 24, 1864.
  - 3.- Rhodes. Vol. IV.
  - 4.- Nicolay and Hay, Vol. IX. p. 120,121.
  - 5.- July 4, 1864.
  - 6.- Complete Works. Vol. II., p. 545.



that he was satisfied with the plan of restoration the bill offered and said that he was and at all times would be prepared to give the executive aid and assistance to any state choosing to adopt that plan.

The next winter when Congress met, in December 1864, the 13th amendment was passed. This served as a basis for reconstruction as well as a sacred and inviolable guarantee that slavery should no longer exist.

On February the 18th, Lyman Trumbull made a report from his committee on the Judiciary, submitting a joint resolution that the government of Louisiana be recognized by Congress under its constitution of April 6, 1864. He stated that, though the facts in regard to Arkansas and Louisiana were similar, the committee had thought it advisable to act first upon the case of Louisiana and if the joint resolution was agreed to, the same course could be applied to any other state desiring readmission.<sup>1</sup> The point was to adopt some set method by which this would be done. The opposition to this was led by Sumner whom Trumbull openly charged in the Senate with being in a combination to delay the important business of the country in the Senate--associating himself with those whom he often denounces for the purpose of calling the yeas and nays and making delatory motion to postpone the action<sup>2</sup> of this body up what he says is a very great public measure. Sumner admitted the charge saying "The question between the Senator from Illinois and myself is simply this: he wishes to pass the measure and I do not wish to pass it. He considers the measure innocent; I consider it dangerous; and in thinking it dangerous, I

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1.- Congress. Globe. February 18, 1865.

2.- Ibid. February 25, 1865. p. 1107.



am justified in opposing it and justified, too, in employing all the instruments that I can find in the arsenal of parliamentary warfare." Louisiana was admitted under this plan, though the plan had not passed, early in March and so the process of reconstruction<sup>1</sup> began. She came in with slavery abolished. The thing was done under military protection, directed by Lincoln who wrote concerning it " a very fair proportion of the people of Louisiana inaugurated a new state government, making an excellent new constitution; better for the poor black man than we have in Illinois."

Sumner had objected to the establishment of government under military power by the President holding that it was the duty of Congress alone. There is no doubt but that the plan offered by Lincoln and Trumbull for reconstruction was the best. In all the steps of the plan there was a carefully adjusted and quite remarkable adaptation of the means at hand--the process was of course a tentative one for no one knew what changes might come. Trumbull argued that it was best that the president should be un-<sup>2</sup>hampered by one cast iron rule which Congress might pass.

Thus the two great measures of the year 1864 which were the outcome and general development of the war and the effort to eliminate its underlying principles, were firmly established. The two of them went together, the first, the 13th amendment meaning nothing unless carried out; and the second, Reconstruction meaning nothing without the 13th amendment as a legal basis for the prohibition of slavery in the state constitutions, now newly formed. It may be said that the part Lyman Trumbull took in the legislation in regard to these two measures will always be remembered. Certainly

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1.- Rhodes, Vol. V. p. 53-55.

2.- Complete Works, Vol. IX. p. 545.

3.- Congress. Globe. February 25, 1865.



as the sponsor and originator of the 13th amendment to the constitution he holds an important place in the legal and legislative history of the United States.



## VII.

### C R I T I C A L   E S S A Y   O N   A U T H O R I T I E S .

#### BIBLIOGRAPHICAL AIDS.

The most useful bibliographical aids for the period of my work have been Channing and Hart, "Guide to American History" (1896) which has good general reference for this period; T. N. Larned, Literature of American History, Boston, (1902) somewhat less complete in account of material than the Channing and Hart guide; and the more specific bibliographical materials found in the List of Lincolniana by Thomas Ritchie, Washington, (1906), a very complete list of the Congressional Library collections and Daniel Fish's, Lincoln Literature, a bibliographical account of books and pamphlets relating to A. Lincoln, Minneapolis, (1900). Besides these I found the bibliography in "Complete Works of A. Lincoln," Nicolay and Hay, Century Edition, of especial value while the footnotes in Theodore C. Smith's "Parties and Slavery," in the American Nation Series, Harpers, (1906) contains much in the way of bibliographical aids.

#### GENERAL SECONDARY WORKS.

The Secondary Works which I made the most use of in the early part of my thesis, for the life and history of Lyman Trumbull in Illinois are, Moses, Illinois Historical and Statistical, Chicago (1892) and Thomas Ford "History of Illinois," Chicago (1854), a unique though very valuable piece of literature. Those used for



the period 1860-1865 are Rhodes, History of the United States, Macmillan (1906), Volumes, III., IV., and V. As expressing an impartial point of view Rhodes is very good and furnishes the most authentic and adequate historical background. Besides this, Theodore C. Smith, Parties and Slavery, New York (1906) covering the period 1856-1860 is good and Horace Greeley, American Conflict, Hartford (1864), though containing some material on this period refers only slightly to Lyman Trumbull.

#### COLLECTIONS OF DOCUMENTS.

The collections of documents used are Mr. Lyman Trumbull's Letters, in the Congressional Library at Washington, as yet unprinted. Mr. Horace White, of New York, expects to publish a biography of Mr. Trumbull which will contain these letters. There were very few of the letters useful to me.

#### PUBLIC DOCUMENTS.

For the primary sources I depended largely upon the Congressional Globe for the years 1856-1865 to furnish me much of party and local politics besides the general legislation of the period. The Globe from the thirty fifth to thirty eighth Congress inclusive is an excellent reflection of the spirit of the time and gave me material upon which to base my view of Trumbull. It was upon this that the most of my work was done. Besides the Globe, the "Messages and Papers of the President s," Edited by James, Richardson, Washington, (1897) Vol. V. and VI. were helpful.

#### CONTEMPORARY PERIODICALS.

The newspapers of this period contain some political



material though not much as to legislation. As one may imagine, except upon the most important bills, the pages of the daily journals of the day were interested more in the outward development of affairs and the actual conduct of the war, rather than in the personalities which weilded the law at Washington.

The New York Tribune and the New York Times, the former the organ of Mr. Horace Greeley, and the latter that of Mr. Raymond were the periodicals I used most but even they contain little of value to me in my particular search.

#### WRITINGS OF PUBLIC MEN.

The published works of statesmen during this period and contemporary accounts of A. Lincoln are important in a subject of this kind. Those which I used are, Charles Sumner, Works of, 15 Vols. Vol. VI., VII., and VIII., Boston, 1875. Wm. A. Seward, Works of, with a memoir in Vol. V., Edited by George E. Baker, Boston (1884), the Complete Works of A. Lincoln, Nicolay and Hay, Century Edition, 2 volumes, and Abraham Lincoln, A History, Nicolay and Hay, in 12 volumes, Century Company, New York, 1890.

#### AUTOBIOGRAPHIES AND REMINISCENCES.

Reminiscences of public men and their autobiographies though not strictly historical in every way contain points that throw light upon subjects. Those I used are Reminiscences of John M. Palmer, Cincinnati, 1901, The Personal Memoirs of General Grant, New York, 1885-1886, Reminiscences of a Long Life, Carl Shurtz, McClures Magazine, 1907-1908.



### BIOGRAPHIES.

Dr. Jayne, a son-in-law of Lyman Trumbull, who lives in Springfield, Illinois, contributed some biographical points to my work. For a general sketch of Lyman Trumbull's life the National Biography served my purpose. Other biographies used, though containing only meagre material are R. H. Dana, a Biography by C. F. Adams, Boston 1891, Life of W. H. Seward by Frederick Bancroft, New York, 1900; Life of A. Lincoln, by Ida M. Tarbell, New York, 1907; Lincoln's History and Personal Recollections, W. H. Herndon, Chicago, 1889; Life of Lincoln, G. Bancroft; and Abraham Lincoln, A History, Nicolay and Hay in 12 volumes, Century Company, New York, 1890. I found, in the numerous lives of Abraham Lincoln that the Nicolay and Hay compilation published by the Century Company in twelve volumes was the most dependable and the most comprehensive though Miss Tarbell's recent life contains many new points and is written in an interesting way.

### DIPLOMATIC HISTORY.

For the diplomatic history which I have touched upon in this period, I depended upon W. H. Seward, by F. W. Seward, New York, 1877.





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